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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1992

Addendum

# NEPAL

[10 April 1995]

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## Preface

The adoption of the Convention on the Rights of the Child by the United Nations General Assembly on 20 November 1989 is indicative of the international community's recognition of rights of children all over the world. His Majesty's Government ratified the Convention on 14 September 1990, thus expressing its commitment to implement provisions contained therein.

In the process of preparing this report, different ministries, non-governmental organizations concerned with children and development, and children themselves have made substantive contributions. In addition, recommendations from a three-day NGO national workshop organized by UNICEF, Redd Barna, the Child NGO Federation-Nepal, the Children-at-Risk Net Work Group (CARNWG) and the International Institute for Human Rights, Environment and Development (INHURED) International, as well as from the Children's National Seminar on the Convention on the Rights of the Child served as significant inputs in the preparation of this Report.

## Abbreviations

| | | |
|---|---|---|
| ARI | = | Acute Respiratory Infection |
| BPEP | = | Basic and Primary Education Project |
| CBR | = | Community-Based Rehabilitation |
| CCWB | = | Central Child Welfare Board |
| CDO | = | Chief District Officer |
| CDD | = | Control of Diarrhoeal Diseases |
| CMA | = | Community Medical Auxiliary |
| CWIN | = | Child Workers in Nepal |
| DCWB | = | District Child Welfare Board |
| ECEC | = | Early Childhood Education and Care |
| EPI | = | Expanded Programme of Immunization |
| HMG | = | His Majesty's Government |
| IEC | = | Information, Education and Communication |
| INGO | = | International Non-governmental Organization |
| INHURED | = | International Institute for Human Rights, Environment and Development |
| IRDP | = | Integrated Rural Development Programme |
| MCH | = | Maternity and Child Health |
| MOH | = | Ministry of Health |
| MOE | = | Ministry of Education, Culture and Social Welfare |
| NAWB | = | Nepal Association for the Welfare of the Blind |
| NCO | = | Nepal Children's Organization |
| NFE | = | Non-Formal Education |
| ORS | = | Oral Rehydration Solution |
| ORT | = | Oral Rehydration Therapy |
| PCRW | = | Production Credit for Rural Women |
| SAARC | = | South Asian Association for Regional Cooperation |
| SFDP | = | Small Farmer Development Programme |
| SOS | = | Save Our Soul |
| TBA | = | Traditional Birth Attendant |
| UNDCP | = | United Nations Drug Control Programme |

## I. BACKGROUND

1. In Nepal, it has only been in the second half of this century that successive Governments have introduced programmes and policies for the overall development of the child. Donor countries and agencies, non-governmental organizations and United Nations bodies such as UNICEF and UNESCO have collaborated with His Majesty's Government (HMG) in the endeavour to raise the status of the child. As a result, infant mortality rates declined from 186 deaths per 1,000 live births in 1960 to 102 in 1991 and 93.8 in 1994 while under-five child mortality declined from 297 per 1,000 children in 1960 to 165 in 1991 and 139.2 in 1994. Nearly 80 per cent of children of school-going age are attending primary school which is certainly a big leap forward considering that educational opportunities did not exist in 1951. Over the decades, centres to rehabilitate orphans and disabled children have been increasing all over the country. Yet, despite all the progress made, infant and child mortality rates in Nepal are relatively high. Life expectancy, at 54.4 years, is among the lowest in the world.

2. In a country where about one half the population live below the poverty line, and where more than 80 per cent of the households derive their primary livelihood from agriculture, many parents tend to undervalue the schooling of their children. From a very early age, children supplement labour in the fields and at home. Studies (National Plan of Action, Children and Development for 1990s, Nepal) show that children between the ages of 6 and 9 work 3 hours a day, while children between 10 and 14 work 5 to 6 hours, with girls putting in nearly twice as many hours as boys.

3. Child labour, illiteracy and illness are serious problems in Nepal. It is especially the girl child who bears the brunt of these miseries due to the gender bias that exists throughout the country. Nepal is one of the countries where there is a strong preference for boys. The socio-cultural environment in which a girl grows up teaches her that her status is lower than that of her brother. The female literacy rate is only 25 per cent and almost two out of three girls do not attend school.

4. The ratification of the Convention on the Rights of the Child and the restoration of multiparty democracy in 1990 have created an opportunity to put children high on the national agenda. The Constitution of the Kingdom of Nepal (hereafter referred to as the Constitution), promulgated in November 1990, includes many clauses to protect the interests of the child. This is the first time in the history of Nepal that the country has shown a deep interest in protecting the rights of the child. Legislation known as the Children's Act was enacted in 1992 in line with the provisions of the Constitution.

5. As it is apparent that the Government alone cannot look after the interests of the child, His Majesty's Government has been encouraging non-governmental organizations to share some of the burden. About 60 NGOs are working to promote the interests of the child.

## A. The land and the people

6. Nepal is a land-locked country, sandwiched between the People's Republic of China to the north and India to the south, east and west. Spread over an area of 147,181 square kilometres, its only outlet to the sea is through Indian territory. The country has three elevation zones: the mountains, the hills and the Terai. The fertile tropical lowlands, known as the Terai, occupy 23.11 per cent of the country's total area, whereas the hills and the mountains cover 41.68 per cent and 35.21 per cent respectively. The Terai, with its relatively developed infrastructure, is the main destination for migrants from the mountains and the hills. The country's elevation starts at less than 100 metres and reaches 8,848 metres, the height of Mount Everest. Climatic conditions change dramatically within relatively short vertical distances, from a humid tropical climate in the Terai to a sub-tropical climate in the hills to a cool temperate climate in the mountains.

7. For administrative and development purposes, the country has been divided into 5 Development Regions, 75 Districts, 36 Municipalities and 3,995 Village Development Committees (VDC).

8. The earliest census, taken in 1911, recorded a total population of 5,638,749, whereas the latest census, taken in 1991, put Nepal's population at 18,491,097. The estimated population in 1994 was approximately 20 million.

**Table 1**

**Population size and growth rate (1961-1991)**

| Census year | Total population | Annual growth rate (%) |
|---|---|---|
| 1961 | 9 412 996 | 1.65 |
| 1971 | 11 555 983 | 2.07 |
| 1981 | 15 022 839 | 2.66 |
| 1991 | 18 491 097 | 2.10 |

9. As there are many ethnic groups, a large number of languages is spoken in the country. The mother tongue of the majority is Nepali.

**Table 2**

**Population distribution by sex and age, 1991**

| Age group | Percentage of population by age group | Sex distribution within age group (%) | |
|---|---|---|---|
| | | Male | Female |
| 0-18 | 50.7 | 51.6 | 49.7 |
| 19-59 | 43.5 | 42.5 | 44.6 |
| 60+ | 5.8 | 5.9 | 5.6 |

## B. The economic and political system of Nepal

10. Nepal is among the poorest countries in the world, with a per capita GDP of US$ 202 (1994). There has been only a marginal increase in the per capita GDP since the mid-1960s due to slow economic growth. From 1965 to 1990, real GDP grew only by 3.4 per cent annually. Growth in per capita GDP was even less, at 0.8 per cent per annum.

11. People in Nepal work very hard to make ends meet. About 70 per cent of the production is of a subsistence nature and is not part of the cash economy. According to the 1991 census, about 81.3 per cent of the country's population is engaged in agriculture. The agriculture sector contributed about 42.4 per cent of the GDP in 1993/94. With the population increasing at more than 2 per cent annually, land holdings are becoming smaller and threatening food security, especially in the hills and mountains. The level of industrialization is low even when compared with other least developed countries (LDCs). Although cottage and small-scale industries have much potential for generating employment opportunities, these remain to be fully used.

12. His Majesty's Government is committed to bring about rapid industrial growth. However, inadequate infrastructure and inadequate incentives are some of the major constraints on industrial development.

13. Following the dawn of democracy in 1951, paving the way for a parliamentary form of democracy, Nepal's brief experiment came to an abrupt end in the early 1960s and was replaced with the partyless Panchayat political system. In 1990, the Panchayat system was overthrown by a largely non-violent people's revolution and a democratic constitutional monarchy was established. The dawn of democracy at the beginning of this decade has heightened people's aspirations for a better livelihood.

14. Elections to the 205-member House of Representatives, the lower house of parliament, were held in 1991. Following the collapse of Nepali Congress Government a mid-term election was held in November 1994, in which the Communist Party of Nepal (United Marxist and Leninist) won the largest number of seats, although no single party secured an absolute majority. The Communist Party (United Marxist and Leninist) has formed Government according to the Constitution.

15. The judiciary has been functioning as an independent and powerful entity. It has played a crucial role in deciding cases filed against the Government.

# II. GENERAL MEASURES OF IMPLEMENTATION (art. 4)

## A. Measures taken to harmonize national law with the provisions of the Convention

16. Before Nepal became a party to the Convention on the Rights of the Child, specific laws relating to the rights of the child did not exist, although there were some provisions in various statutes to protect the child's interest. (The list of laws and regulations related, directly or indirectly, to children's welfare and development is given in annex I.)

17. After the ratification of the Convention in September 1990, Nepal has taken many appropriate legislative, administrative and other measures to implement the rights of the child laid down in the Convention. Several legal provisions have been either repealed or amended, while some acts and regulations have been enacted so as to harmonize Nepalese law and policy with the provisions of the Convention.

**The Constitution**

18. As the child is vulnerable, the Constitution of the Kingdom of Nepal, 1990, has included many provisions, especially in Part 3 (Fundamental Rights) and in Part 4 (Directive Principles and Policies), to safeguard the rights of the child. Article 11 stipulates the right to equality. Article 20 prohibits trafficking in human beings, slavery, serfdom or forced labour in any form. The employment of minors in a factory, a mine, or in any hazardous work is similarly prohibited. Article 26 (8) empowers the State to make necessary arrangements to safeguard the rights and interests of children, to ensure that they are not exploited and are provided free education.

19. Article 26 (9) of the Constitution directs the State to promote policies in matters of health, education and social security that will ensure the protection and welfare of orphans, helpless women, the aged and the disabled.

20. The Constitution also guarantees citizens the right to effective remedy and enforcement of the rights conferred by the Constitution.

21. The legislative framework acknowledges that only an independent and effective judiciary can protect and enforce the fundamental rights of citizens, including children. The Constitution has provided the Supreme Court with adequate powers to issue orders and writs for the protection of the rights of the child.

22. The guarantee of basic human rights, multiparty democracy and the establishment of an independent and competent judicial system are some of the unamendable features of the Nepalese Constitution.

**International instruments**

23. Being an advocate of human rights, Nepal has already become a party to various international instruments including, but not limited to, the Slavery Convention, the International Convention on the Elimination of all Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

**The Children's Act, 1992**

24. In May 1992, the Children's Act (hereafter referred to as the "Act") was enacted to protect and safeguard the rights and interests of children. This Act, which was drafted by the Nepal Law Reform Commission and the Ministry of Law and Justice, covers nearly all aspects of the rights of the child guaranteed in the Convention.

**Other instruments**

25. Other instruments such as the Muluki Ain (1963), also known as the General Law, the Breast Milk Substitutes (Marketing Control) Act (1992), the Labour Act (1992), the District Development Committee Act (1991), the Social Welfare Act (1992) and the Insurance Act (1992) have all incorporated provisions to safeguard the rights of children and ensure their protection and development.

**The National Programme of Action for Children and Development**

26. His Majesty's Government has formulated a 10 Year National Programme of Action for Children and Development for the 1990s in line with the World Declaration on the Survival, Protection and Development of Children and Plan of Action which Nepal has signed. The Programme of Action ensures that children are given a special focus in the national agenda. The programme covers different aspects related to child development such as nutrition, health, education, children in especially difficult circumstances, poverty alleviation, food security and communications (the goals for children and development in the 1990s are given in annex II).

27. The National Programme of Action has set national goals for 2001 in the areas of health, education, drinking water and sanitation. More than 56 billion rupees (about US$ 1.1 billion at current prices) are needed to implement NPA programmes in these fields alone.

28. Among others, the goals include reducing the infant mortality rate to 50 per 1,000 live births and reducing the under-five mortality rate to 70 per 1,000, ensuring the completion of primary education by more than 70 per cent of primary school age children; supplying safe drinking water to 77 per cent and sanitary latrines to 31 per cent of the population; and reducing severe and moderate malnutrition among children under five by one half.

**The Eighth Plan (1992-1997)**

29. The policies of the Eighth Plan (1992-1997) also reflect Nepal's commitment to the survival, protection and development of children as obliged by the South Asian Association for Regional Cooperation (SAARC) Children's Conference (1986), the SAARC Year of the Girl Child (1990), the World Conference on Education for All (1990), the World Summit for Children (1990), and the Convention on the Rights of the Child (1990).

30. The current Eighth Plan has included the following policies for child development:

1. Protected maternity programmes for the care of children from the womb onwards will be extended to the village level. From the time of conception, periodic health check-ups, treatment and protective maternity services will be made available.

2. To reduce the infant and child mortality rate according to the target of the Eighth Plan, extended programmes will be launched to carry out immunization and to control gastro-enteritis and respiratory diseases. Together with this, general awareness of child health will be enhanced through the medium of health education.

3. To improve the general and minimum status of nutrition, programmes will be implemented maintaining coordination among the food, health and education sectors. By creating employment opportunity, the supply of household food will be increased. Protein energy and the treatment of diseases related to micro-malnutrition will be made available from sub-health post level. The knowledge pertaining to nutritional education will be imparted from the level of primary education onwards.

4. For the expansion of curative services for child health arrangements will be made to provide more beds and specialist services in Kanti Children's Hospital. On the basis of population, arrangements will also be made to provide beds and specialists in zonal and district hospitals.

5. Keeping in mind the advantageous effects of a small family on the development of children, programmes that encourage the concept of a small family will be conducted through the medium of family planning services.

6. With the participation of the private sector, non-governmental institutions and local units, child-care centres and pre-primary schools will be established for children in the age group 0-5.

7. Free primary education will be provided to children of primary age. In this context, various measures are being taken to ensure quantitative and qualitative improvements, such as increasing the enrolment of girl students, giving education opportunities to those who have been deprived of primary education facilities and reducing the number of students who quit school or fail.

8. For children of secondary school age, secondary education and vocational secondary education opportunities will be made available.

9. Various programmes will be launched according to the needs of children in specially different circumstances: employed, blind, disabled, helpless, discarded, orphaned, beggars, as well as children affected by drug abuse, in order to make them able citizens of the country. The child welfare home will be developed and expanded. The acts and rules for the labourers will be reformed and arrangements will be made to provide facilities in the concerned factories. For the development of children affected by special circumstances, the Government will give encouragement and provide facilities to involve national and international non-governmental organizations and institutions.

10. In order to protect the legal rights and benefits of children, the Children Acts 1992 has been published. As the role of non-governmental agencies is important in the effective implementation of laws regarding children, these organizations will be encouraged to disseminate information on laws relating to children and will be motivated to assist the Government in punishing those found violating such laws.

11. Various measures will be adopted to encourage and help local agencies to fix targets relating to children and development while formulating local-level plans and programmes.

12. A high-level National Child Development Council will be established to coordinate and monitor the process of implementing the plans. The Government and non-governmental units involved in the children and development sector will be represented in the Council. The National Planning Commission Secretariat will serve as the secretariat of the council.

31. The Eighth Plan's sectoral policies and programmes in the fields of health and family planning, education and culture as well as drinking water and sanitation should greatly benefit children and women. Furthermore, national policies on poverty alleviation, population, women in development and nutrition are expected to better the status of children.

32. A new health policy to provide essential health services for children, especially in the rural areas, was developed by the Ministry of Health (MOH) in 1991. Among other areas, the health policy emphasizes child survival, safe motherhood and family planning. A policy to control acute respiratory infections (ARI) was formulated by the MOH in May 1994.

### B. Planned and existing mechanisms for coordinating policies relating to children and for monitoring the implementation of the Convention

33. The Government has established a National Council for Women and Child Development, under the chairmanship of the Prime Minister, to formulate national policies for the development of children and women. The Council's responsibility is also to monitor and coordinate governmental as well as intergovernmental activities relating to children and women.

34. The Council consists of representatives from the National Planning Commission, NGOs, concerned ministries, women members of the house of representatives and others.

35. The Government also established a Child and Women Development Section in the National Planning Commission Secretariat in June 1993. The body has been strengthening and coordinating the programmes being implemented by governmental, local non-governmental and international non-governmental organizations (INGOs). In addition, this section is working as a national focal point for the development of children and women.

36. The Government plans to form a Children's Welfare Board which will consist of a Central Child Welfare Board (CCWB) and a District Child Welfare Board (DCWB). The executive director, to be appointed by the Government, will serve as the chief administrator of the Board. A maximum of 21 members, including social workers, medical practitioners, child psychologists and teachers, will be appointed by HMG to the CCWB. The Board will work in accordance with the policies and directives of HMG. The main functions, duties and powers of CCWB are to:

(a) Prepare a long-term national plan and policy relating to the child's right to survival, protection and development, and submit it to HMG for approval;

(b) Implement the plans and policies approved by the Government;

(c) Prepare an annual programme and an annual budget necessary to carry out the Government's policies and programmes;

(d) Give necessary policy directives to the DCWB and coordinate, monitor, review and evaluate the programmes of the DCWB;

(e) Recommend the establishment of children's welfare homes, children's rehabilitation homes, orphanages and centres for mentally retarded children in the districts, as needed, and as recommended by the DCWB;

(f) Collect data relating to the child's right to survival, development, protection and participation, especially of abandoned, working, disabled and mentally retarded children, bonded child labourers, child prostitutes, and married children. Maintain up-to-date records regarding the affected children and make recommendations to HMG to initiate necessary action in these matters;

(g) Promote the child's right to survival, protection and development by mobilizing the participation of NGOs and INGOs, and assistance from donors, with prior approval from HMG;

(h) Disseminate information on the provisions made in existing national laws and in the United Nations Convention on the Rights of the Child.

37. A DCWB is to be constituted in each district under the convenorship of the chief district officer (CDO). The CDO shall nominate persons from among social workers to serve on the district board. Each DCWB must prepare a district-level long-term plan for the promotion of the child's right to survival, protection and development, which is to be submitted to the CCWB for approval by HMG. DCWB will collect data concerning children's rights and facilities available at children's welfare homes, children's rehabilitation homes, orphanages, centres for mentally retarded children and other similar centres being run by individuals or institutions in the district. DCWB must also maintain up-to-date records and send them to CCWB. In addition, each DCWB must submit a report of its achievements and activities before the beginning of the Nepalese New Year (mid-April). CCWB will then prepare a national report regarding the status of children based on these annual reports. The national report must be submitted to HMG each year by mid-July.

38. HMG also plans to establish children's welfare homes in different regions of the country for the upbringing of abandoned children. It is the duty of the child welfare officer and the police personnel in the district to locate abandoned children and hand them over to a children's welfare home. HMG may use an orphanage or a children's welfare home that is being run at the non-governmental level for the upkeep of abandoned children until Government welfare homes are established.

39. Different health institutions in the country provide health services for children. While hospitals such as Kanti Children's Hospital provide services in the capital, the less-sophisticated health posts provide necessary treatment in the rural areas. The health posts, located in the 205 electoral constituencies of the Kingdom, are to be upgraded gradually and converted into primary health-care centres. Services of doctors will be made available at the primary health-care centres, and arrangements will be made to equip these centres with one maternity and two emergency beds. There are 700 sub-health posts spread across the country, and 600 more of them will be established during this fiscal year. Female community health volunteers, village health workers and trained birth attendants will promote health services at the community and family levels.

40. As the Government is strongly committed to reducing the maternal mortality and morbidity rates in the country, a separate Family Health Section under the Family Health Division of the Department of Health Services has been established. A high-level task force to ensure safe motherhood has already been established under the chairmanship of the Secretary of the Ministry of Health, and a national plan of action for safe motherhood has been formulated.

41. The Ministry of Education, Culture and Social Welfare has different divisions and directorates which help formulate, implement, monitor, and evaluate education policies. The Council for Technical Education and Vocational Training, the Council for Non-Formal Education and the Sports Council are working under the Ministry to provide appropriate education and training to children. In each district, there is an education office to implement and monitor education programmes. The Social Welfare Council also functions under the Ministry and formulates, implements, coordinates, monitors and evaluates social welfare activities and programmes for children.

### C. Contribution of NGOs and international organizations

42. The role of NGOs and INGOs has been crucial in supplementing the Government's development activities. Paropakar Anathalaya, established in 1952, was the first NGO-run welfare centre in Nepal dedicated to educating and rehabilitating children. In 1964, the Nepal Children's Organization (NCO) was set up to provide food and lodging, education, medical care and vocational training to children, especially to orphans and economically disadvantaged children. Today NCO has a branch in each of Nepal's 75 districts. NCO assists 15,000 children to attend primary school each year. An SOS Children's Village was established in Kathmandu in 1972 with help from the International SOS. Over the years, five more SOS centres have been set up. These centres provide food, lodging, education and various kinds of training to more than 900 orphans. In addition, 2,300 children receive education in six schools established and run by SOS. Although many NGOs are

registered with the Government, only a few are active in this field. Of the nearly 6,000 NGOs registered in Nepal, fewer than 1 per cent are associated with child welfare.

43. INGOs provide support, both financially and technically, to various child welfare activities. INGOs such as Redd Barna, Save the Children Fund (UK), Save the Children Fund (USA), and Plan International are supporting activities related to child development. International volunteer organizations such as the United Nations Volunteers and the national volunteer organizations of such countries as the United States, Germany, Japan and Denmark are also very active.

44. Since 1960, UNICEF has been cooperating in expanding and improving basic services for the children of Nepal. It has been assisting the Government in the fields of nutrition and health, basic and primary education, and water supply and sanitation. Under the most recent agreement, UNICEF will assist the Nepalese Government in these endeavours until December 1996. The HMG-UNICEF country programme puts children first and is in line with the Convention on the Rights of the Child. The country programme is also a part of the Government's Programme of Action for Children and Development for the 1990s.

45. UNICEF is helping HMG to define clear-cut child policies and priorities, while seeing that adequate resources are allocated through budget restructuring.

### D. Measures taken to make the principles and provisions of the Convention widely known (art. 42)

46. Essay, poetry and poster competitions have been organized regularly by NGOs and by the Government to promote the rights of the child. On the international organization side, UNICEF has played a significant role in advocating the rights of the child. Brochures, music tapes, photo panels, and radio and TV shows have been produced to promote the Convention. The most recent and unique effort has been the letterhead campaign, in which NGOs, different professional groups and even commercial companies have been requested by UNICEF to print an article from the Convention at the bottom of their letterheads. It is estimated that more than a million such copies have already been printed. Some commercial companies have also decided to print Convention messages on their products. Furthermore, some post offices have agreed to stamp the Convention's articles on all incoming and outgoing mail.

47. INGOs and NGOs have also included Convention messages in their seminars and training programmes. A few years ago, child workers in Nepal, an NGO, distributed Convention materials during a public gathering. A coalition body of NGOs, Child NGO Federation-Nepal, organized a painting and poetry competition on the Convention last May. The Child Development Society, in cooperation with Redd Barna, organized a song competition to promote the rights of the child in August 1994. It was broadcast live on Radio Nepal and Nepal Television.

48. INHURED International-Nepal organized a seven-day national human rights exhibition in December 1992, with a special focus on children. The exhibition

was organized with the support of the UNESCO Regional Office, Bangkok and the National Commission for UNESCO of the Ministry of Education, Culture and Welfare. In 1993, an inter-school national poetry competition on the subject of children's rights was organized by INHURED International.

49. The Ministry of Education, Culture and Social Welfare is considering to include the Convention in the school curriculum in order to disseminate information and educate children about their rights.

### E. Measures undertaken or foreseen to make the report widely available to the public (art. 44, para. 6)

50. HMG gave much importance to the reporting process and so it decided to share the draft report with the public. Responding to this positive step, UNICEF-Nepal, INHURED International, the Child NGO Federation-Nepal, the Children-at-Risk Networking Group and Redd Barna organized a three-day National Workshop on the Convention (with support from UNICEF). Before the national workshop, announcements were made through TV, radio and newspapers to encourage wide participation of NGOs. The draft of the country report, prepared by the Child and Woman Development Section of the National Planning Commission Secretariat, was distributed to all the participants for preliminary scrutiny. More than 150 NGOs from all over the country came together in March 1994 and extensively discussed issues pertaining to the rights of the child. They listed their comments on the draft report and submitted them to the National Planning Commission.

51. A five-day Children's National Seminar on the Convention was also organized the following month by UNICEF, the Child NGO Federation-Nepal and INHURED International. During the seminar, a group of 30 children, representing different ethnic, religious, geographical and socio-economic backgrounds, had a chance to discuss and learn about their rights. The children included child labourers, refugees, disabled children and orphans as well as children from privileged families. One of the main objectives of this seminar was to come up with ways to implement the rights of the child. After the seminar, the children went to their respective villages and cities to interview other children and to observe the state of children there. The children were asked to document on information about the rights of the child and in photographs and writing. To ensure even wider participation, announcements were made on TV, radio and in the newspapers, encouraging children throughout the country to send in their impressions on the rights of the child in the form of articles, paintings, poems and songs.

52. In April, the 30 children returned to the capital for another meeting of the Children's National Seminar on the Convention, this time with another child whom each had chosen during the course of the exercise. The seminar, whose inaugural function was chaired by a street child and attended by the Speaker of the House of Representatives and other high-ranking government officials, was virtually conducted by the children themselves. They had intensive discussions on the information which they had collected and on the contributions made by other children. They organized a press conference and a discussion session with members of Parliament and the National Planning

Commission. The children formed a children's national networking group to promote the rights of the child, and decided to publish a quarterly newspaper to exchange ideas and share experiences. The seminar participants also made comments on the country report.

53. The right to participation by children was obviously taken seriously by Nepal. The National Planning Commission formed a working committee, comprised of seven members from the Law Reform Commission, different ministries, NGOs and child representatives, to finalize the country report. This committee thoroughly reviewed the draft. It has incorporated recommendations from the NGO National Workshop and the Children's National Seminar on the Convention wherever possible.

## III. DEFINITION OF THE CHILD (art. 1)

54. **Attainment of majority.** Section 2 (A) of the Children's Act (1992) states that every human being below the age of 16 is a child, whereas the Labour Act (1992) puts the age limit of a child at 14 years. The Nepal Citizenship Act (1963) considers a person below 16 to be a minor. The Begging (Prohibition) Act (1962) states that a person who is below the age of 16 is a child. Similarly, the Insurance Act (1993), the Evidence Act (1974), the Post Office Saving Bank Regulation (1976), and the Contract Act (1966) all consider persons below 16 to be children. The Small Pox Control Act (1963) defines a person below 12 as a child.

55. **Marriage.** The Muluki Ain (General Law) (1963) has fixed the legal age of marriage for boys at 18 and for girls at 16, if parents consent; and 18 and 21 respectively if parents do not approve of their marriage.

56. **Sexual consent.** A couple must be 16 years old to legally have sexual intercourse.

57. **Part-time, full-time or hazardous employment.** A separate legal provision does not exist for part-time employment. However, certain provisions in the Labour Act (1992) permit full-time employment to anyone who is above 14. As regards employment of children, Section 17 of the Act has made the following provisions:

(a) A child who has not attained the age of 14 shall not be employed as a labourer;

(b) A child who has attained the age of 14 or above shall not be employed as a labourer from 6 p.m. to 6 a.m.;

(c) A child who may be employed as a labourer shall not be engaged against his or her will;

(d) No child labourer or minor (14-18 years old) shall be engaged in any work that is likely to be harmful to the child's health or hazardous to his or her life. Under the Civil Service Regulations, a person must be at least 18 years old to seek employment.

58. **Voluntary enlistment and conscription into the armed forces.** The Royal Army New Recruitment Rules (1962) require a person to be at least 18 years old before he can be recruited into the army. There is no military conscription in Nepal.

59. **Consumption of alcohol or other controlled substances.** The Hotel Management and Liquor (Sales and Distribution) Control Act (1966) prohibits the sale of liquor or the inducement to consume liquor to a person who is below 16.

60. **Voluntarily giving testimony in court.** According to the General law, a person has the right to give testimony in court when he/she is 16.

61. **Voting.** Under the new Constitution promulgated in 1990, anyone who is 18 years old can cast his/her vote.

62. **Criminal liability, deprivation of liberty, and imprisonment.** The Children's Act states in section 11: (a) if a child below the age of 10 commits an act which is an offence under law, he/she shall not be liable to any type of punishment; (b) if a child who is between the ages of 10 and 14 years commits an offence which is punishable by a fine, the child shall be warned; and if the offence is punishable by imprisonment, the child shall be sentenced for a period of up to six months, depending upon the offence committed; (c) if the child is between 14 and 16 years of age and commits an offence, he/she shall be punished with half the penalty that is imposed by law on a person who has attained maturity.

63. **Compulsory education.** In Nepal, children are allowed to enter primary school when they are 6, and they are normally 16 years old when they finish secondary school. Few students, however, finish secondary school. There is no compulsory education in Nepal.

64. **Obtaining medical counselling without parental consent.** There are no laws relating to this in Nepal.

## IV. GENERAL PRINCIPLES

### A. Non-discrimination (art. 2)

**Legislative provisions**

65. According to the Constitution, all people are equal before the law. Article 11 (3) of the Constitution states that no discrimination shall be made against any citizen on the grounds of religion, race, sex, caste or ideology. Article 11 (1) of the Constitution guarantees that all citizens shall be given equal protection under the law. Even at times of emergencies, article 11 (5) of the Constitution prohibits the suspension of the right to equality.

66. The Children's Act states that every child labourer shall be provided equal remuneration for the work he/she does, irrespective of the child's sex, religion, race, colour, caste or community. The Act prohibits parents from discriminating between boys and girls while providing food, education and health care. Sections 4, 5 and 6 of the Act further state that no

discrimination shall be made between a son and a daughter, among sons and daughters, or between children born out of wedlock or in lawful wedlock in matters relating to their upbringing, education and health care. No discrimination of any kind shall be made between a natural and an adopted child.

67. Section 32 of the chapter on partition in the General Law states that partition between sons should be equal and just.

68. Section 3 of the Civil Liberties Act (1954) deals with the right to equality, and section 4 prohibits any restrictions on any citizen on the basis of religion, race, sex or caste.

**Implementation**

69. HMG is committed to providing equal opportunities, whether they be in the field of education, health or other fields, to all the children of Nepal. In a bid to provide basic needs in the rural areas and improve living standards, the Government has allocated additional NRs 300,000 per year for each Village Development Committee for the development of rural areas.

70. Primary schools are being widely established in rural areas in order to reduce the walking distance between the child's home and school as well as to increase children's enrolment in primary schools. The Government, NGOs and international organizations are supporting backward communities in the fields of education, health care and nutrition in order to upgrade their living standards.

71. Various programmes have been initiated to provide equal opportunities to the girl child by reducing their work burden and providing better access to school and health facilities. These include:

(a) The Out-of-School Programme, under the Non-Formal Education Programme, is designed so that children, especially girls, can have access to basic education with which they can re-enter the primary school system as well as learn skills that are useful in the home;

(b) The Early Childhood Education and Care (ECEC) project within the Education programme promotes home-based child care and parenting education, as well as community-based child-care centres. Child development activities help reduce the child-care work burden of older girls, allowing them to attend school;

(c) The Water and Environment Sanitation (WES) programme assists communities in the construction of water schemes, which reduces the time spent by women and girl children in fetching water, thus enabling them to give more time to family health, nutrition, income-generation and other activities;

(d) In a bid to promote the girl child's equal access to health care, female community health volunteers are being trained to provide health delivery services at the grass-roots level, and health post and sub-health post staff are receiving awareness training to encourage women and girl children to use primary health-care facilities;

(e) The Community-based Programme, forestry and agriculture projects and other environment-oriented efforts promote reforestation and local forest management to reduce the time that women and girl children take to collect fodder and firewood.

72. Films such as the UNICEF-funded "Ujeli", a fictional account based on fact and shot entirely in a village in central Nepal, have helped create awareness among the people about the existing bias against the girl child. TV commercials depicting the advantages of sending girls to school have been well received by the public.

73. Discrimination based on race and caste still exists in many parts of Nepal. However, if a case of racial discrimination is filed in the District Administration Office, action can be initiated against such activity.

**Constraints**

74. Discrimination on the basis of race and caste is prohibited by the Constitution. However, in some communities, it is difficult for children of a low caste to associate with children of an upper caste. People belonging to the low castes are frequently not aware of their rights.

75. Although the right to equality is guaranteed by law, discrimination against the girl child is widely prevalent in families, especially in the rural areas. There is a strong preference for boys in the society. Discrimination against the girl child at home is due to economic necessity, to ignorance on the part of the parents or guardians, and because there are no legal provisions to punish parents who discriminate against their own children. There are no competent agencies to help children who are victims of such social traditions.

76. There is somewhat less discrimination against the girl child in urban areas where parents are more often educated.

## B. Best interests of the child (art. 3)

**Legislative provisions**

77. Article 26 (8) of the Constitution states that the State shall make necessary arrangements to safeguard the rights and interests of children, shall ensure that they are not exploited, and shall make gradual arrangements for free education.

78. Article 11 of the Constitution has empowered the State to legislate special laws for the welfare of children even if it violates the principles of equality among citizens.

79. The Act makes it an obligation of the parents to provide education, health care, sports and recreational facilities to the child, while prohibiting cruel treatment of children by parents, guardians and teachers.

Section 23 of the Act states that guardians shall: (a) bring up the child in a way that will enhance the physical and mental development of the child; (b) arrange for education to promote the intellectual development of the child; (c) prevent the child from being involved in bad company or habits.

80. The Act provides for the establishment of children's welfare homes, children's rehabilitation centres and orphanages for children who do not have relatives. It has also provided for the appointment of a child welfare officer to place the child in a family setting or in a child-care institution.

81. Under the Municipality Act (1991), it is the duty of the municipality to arrange for child-care centres, gymnasiums and dispensaries, while seeing to it that all children between 6 to 10 years are admitted to school. The municipality must also make arrangements for recreational facilities, playgrounds, museums, zoos, parks and libraries.

82. The Labour Act (1992) prohibits the employment of children in any organization or industry, while the Social Welfare Act (1992) provides for rehabilitation of the victims of crimes against children and drug abuse.

**Implementation**

83. Before Nepal ratified the Convention, a special act for the welfare of children did not exist. The enactment of the Children's Act in 1992 has paved the way for the implementation of the rights of the child as provided for in the Convention.

84. The Government has emphasized universal primary education by the turn of the century. Enrolment of children of school-going age in primary schools is nearly 80 per cent.

85. Some street children and child workers in carpet industries are being rehabilitated and educated, thanks to the efforts made by non-governmental organizations to highlight their plight.

86. In all 75 districts of the Kingdom, Nepal Children's Organization operates *Bal Mandirs* (children's homes) which provide food, shelter and education to orphans and abandoned children.

87. Nepal's commitment to the best interests of the child has been seen in its participation in the SAARC Children's Conference (1986) and the SAARC Year of the Girl Child (1990), the ratification of the Convention on the Rights of the Child the formulation of a National Plan of Action for Children and Development for the 1990s following the World Summit for Children in 1990, provisions made in the Constitution, and policy statements regarding children in the Eighth Plan.

88. The current Eighth Plan has a policy of making secondary education free. In line with the policy, the Government has made free education up to class IX from academic year 1995. In addition, the Government has a policy to establish and extend sufficient vocational and technical schools.

**Constraints**

89. Despite the commitment shown by the Government and non-governmental bodies, poverty, a high illiteracy rate and a low level of public awareness about the child's rights make it difficult to serve the best interests of the child. In rural areas, children begin working from a very early age. It is the girl child who bears the major brunt of the workload.

90. Cigarettes and liquor are sold freely to young children. There are no bans on smoking advertisements on TV.

91. There is no legal provision to punish guardians who fail to act in accordance with the provisions laid down in the laws to protect the interests of the child.

## C. Right to life, survival and development (art. 6)

**Legislative provisions**

92. Provisions in the Constitution and the Children's Act provide for necessary health care to pregnant mothers, babies and children.

93. The Small Pox Control Act (1963) has a provision to vaccinate all children against diseases.

94. The General Law prohibits abortion, except on the advice of a doctor. Information regarding any abandoned neonatal baby must be directed to the nearest police station.

95. The General Law further states that any person who abandons a neonatal baby can be imprisoned for a period of four years. If the neonatal baby dies, the person who abandons the baby shall be held responsible for homicide. The severity of the punishment for abortion varies, depending upon whether the abortion has been carried out with or without the consent of the pregnant woman.

96. The Act mentions that it is the parents' duty to feed, support and raise their children and to vaccinate them against various diseases. The Act (sect. 4) also mentions that it is the State's obligation to provide the parents with the necessary advice, education, and services related to family planning and preventive health care.

**Implementation**

97. Nepalese law protects the child's right to life, survival and development from the time of conception. The responsibility of vaccinating children lies with the parents or guardians.

98. By the end of 1990, considerable gains towards universal vaccination against the six major "child-killer" diseases had been made. Similarly, efforts to control diarrhoeal diseases have been stepped up through the promotion of oral rehydration therapy (ORT) in the Kingdom. A study conducted by the Service Extension and Action Research for Communities in

the Hills (SEARCH) in 1990 showed that ORT awareness had risen to 80 per cent of the population in some areas. The usage rate, however, may be quite low. Governmental and international organizations, NGOs and INGOs such as UNHCR, UNICEF, WFP and Plan International are involved in income-generating activities and in providing necessary medicines, vitamins and baby foods in rural areas.

99. The Food for Work programme has helped feed malnourished children in food-deficit areas. Several Integrated Rural Development Projects (IRDP) are being implemented in rural areas for their all-round development. Rural Development Banks are being established to increase credit facilities in rural areas. The availability of such facilities has a direct bearing on the well-being of the child. (For the annual national budget, 1994/95, directed toward services relevant to child health and development, refer to annex VII.)

**Constraints**

100. The survival and development of the child depend on the family's ability to look after its children's health, nutrition, education and sanitation on the one hand, and the delivery of public services by the Government on the other hand. Although it is the duty of the parents to see that their children are vaccinated against diseases, there is no legal provision that binds guardians to this responsibility. Formal health services still do not cover many parts of Nepal. Where these services are available, resource constraints, inadequate monitoring and supervision, and insufficient infrastructure often fail to meet the needs of the people.

## D. Respect for the views of the child (art. 12)

**Legislative provisions**

101. Article 12 of the Constitution guarantees the freedom of opinion and expression.

102. Section 19 of the Children's Act states that the court shall not entertain or decide a criminal charge brought against the child unless there is a legal practitioner to defend the child.

103. Under section 57 of the Act, a case in which a child is a plaintiff or defendant shall be given priority for hearing and verdict.

**Implementation**

104. In preparing the present report, the views of children have been incorporated. During the five-day Children's National Seminar, children representing different ethnic, religious, geographical and socio-economic backgrounds came together in Kathmandu to discuss their rights.

**Constraints**

105. The law does not provide any directives on how the child can express his/her views freely.

106. In family matters, the views of children are unlikely to be respected. This can be concluded on the basis of a significant rate of child marriage in the country.

## V. CIVIL RIGHTS AND FREEDOMS

### A. Name and nationality (art. 7)

**Legislative provisions**

107. In accordance with the Constitution and the Nepal Citizenship Act (1963), the children of Nepalese citizens are entitled to become Nepalese citizens by birth. Any child who is found in Nepal, and whose parents' whereabouts are not known, is also entitled to Nepalese citizenship until the whereabouts of the parents are known. No child need be stateless in Nepal.

108. Section 3 of the Children's Act stipulates that a child has the right to a name, which is to be given by his/her father, by his/her mother in the absence of the child's father, and by close relatives in the absence of the mother. In case the parents or close relatives cannot be identified, a guardian or institution that is looking after the child shall name the child in accordance with the religion, culture and customs of the guardian.

109. Under the Birth, Death and Other Incidents (Registration) Act (1976), the birth of each child must be registered. While applying for a birth registration certificate, the name of the child's father and the grandfather must be mentioned for identification. If the father cannot be identified, the names of the mother and maternal grandfather are to be provided.

**Implementation**

110. Hospitals provide birth certificates to babies, which make it easy to identify and register the birth of a child. Babies abandoned after birth in hospitals have had their births registered by persons who agree to foster them or by staff members attached to charitable organizations, such as the SOS Children's Village or the Nepal Children's Organization.

**Constraints**

111. Normally, only babies born in a hospital receive a birth certificate and an official statement of their nationality. Since most children are born at home, problems sometimes occur when filing for a birth certificate.

112. Even in urban areas, people are not aware that they have to register the births of babies.

### B. Preservation of identity (art. 8)

**Legislative provisions**

113. Article 9 of the Constitution and section 3 of the Citizenship Act guarantee the citizenship of Nepalese citizens. Nepalese children become

citizens at birth. A foreign woman who is married to any citizen, and who has initiated proceedings to renounce her foreign citizenship, may acquire Nepalese citizenship. The law does not apply to a male foreigner married to a Nepalese woman. Any Nepalese person who has renounced Nepalese citizenship and has become a citizen abroad, but renounces his/her foreign citizenship, can again become a Nepalese citizen.

114. Section 83 of the chapter on Court Procedure and section 5 A of the chapter on Husband and Wife in the General Law authorize the guardian or heir to initiate proceedings for establishing paternal relationship of the child.

115. If a child is abandoned, and if the parents are later identified, he/she is entitled to a share of the parents' property, pursuant to section 10 of the chapter on Adoption. If a child is born within 272 days from the date the parents were divorced, the former husband shall be considered the father, and paternal relationship shall be established accordingly under section 3 of the chapter on Husband and Wife of the General Law and section 6 of the Evidence Act (1974).

116. Section 3 and section 10 of the Act entitle the child to state in any document or formal proceedings his/her maternal grandfather's name in case his/her father cannot be identified. In case the rights set forth in the Act are violated, the child may seek appropriate help or protection from a juvenile court. When children reach 16 years of age, they can apply to obtain a citizenship certificate.

**Constraints**

117. People living in the Terai as well as in the hills at times face difficulty in obtaining citizenship certificates due to insufficient substantiating documents.

## C. Freedom of expression (art. 13)

**Legislative provisions**

118. Article 12 (2a) of the Constitution guarantees its citizens, including children, the freedom of opinion and expression. Article 16 of the Constitution guarantees the right to demand and receive information on any matter of public importance.

**Implementation**

119. Children exercise this right through the mass media and through extra-curricular school activities, such as debates and talk programmes. The radio, television and newspapers provide children the opportunity to express themselves. Some national newspapers have a children's column to allow them to express their opinions. Different activities for children, such as cultural programmes and art and speech competitions, organized by the government as well as non-governmental organizations, help them to express their talents.

**Constraints**

120. There is no provision in the existing laws that says the media must cooperate in promoting the free expression of the child. In practice, only the government media has, from time to time, been doing this. There are no legal provisions that say how guardians and the Government should help encourage the free expression of the child.

## D. Access to appropriate information (art. 17)

121. Article 16 of the Constitution guarantees the right to demand and receive information on any matter of public importance.

122. Section 11 of the National Publicity Act (1992) states that institutions and organizations engaged in publicity shall give priority to those programmes which are related to children.

123. Section 8 of the Cinema Act prohibits the exhibition of films which are deemed harmful to children.

**Implementation**

124. There are now many magazines and books which are published locally for children. The State-owned Gorkhapatra Corporation, a publishing house, brings out *Muna*, a monthly magazine for children. It has interesting stories, parables and cartoons. The Children's Awareness Group, formed during the Children's National Conference, has begun publishing *Children's Voice*, the only national-level publication by and for children. The Royal Nepal Academy is also engaged in promoting children's literature.

125. The Nepalese Society for Children's Literature, based in Kathmandu, has so far published more than 190 books for children. The society also has a children's library and a reading room. The British Council includes a children's section in its library in Kathmandu.

126. Every day, Radio Nepal broadcasts a children's programme, apart from programmes based on the school curriculum. It also broadcasts *Hate Malo* (Hand in Hand) for children in collaboration with Redd Barna-Nepal. The radio also organizes essay competitions on the rights of the child from time to time. Nepal Television transmits children's programmes and animated cartoons. However, Nepal TV coverage is limited to the cities. The Government's decision to broadcast news on the radio in different languages spoken across the country should help children become more informed.

**Constraints**

127. In the rural areas, children do not have access to the above resources due to transportation and communications problems. Educational materials are also very expensive. There is little incentive to produce educational materials for children because of the high illiteracy rate. There is also little diversity in the materials available for children, whether they be on TV, radio or in newspapers. The ability to gain something from the media is largely determined by the educational status and literacy levels of children.

Only about 40 per cent of the total population is literate, although at present about 80 per cent of the children aged 6 to 10 are enrolled in primary schools.

## E. Freedom of thought, conscience and religion (art. 14)

### Legislative provisions

128. As mentioned before, article 12 (2a) of the Constitution guarantees the right to freedom of opinion and expression.

129. Article 19 of the Constitution states that every person shall have the freedom to profess and practise his/her own religion as handed down to him from ancient times, and states that no person shall be entitled to convert another to his/her religion. It further mentions that every religious denomination shall have the right to maintain its independent existence and, for this purpose, the right to manage and protect its religious places and trusts. A chapter on conversion in the General Law prohibits the conversion of a child into a fakir for religious purposes.

### Implementation

130. Children normally tend to follow the religion of their parents. Because of religious tolerance, people of different faiths live in harmony with each other. Although morals are taught in primary school, religion is not preached. The Constitution guarantees non-discrimination regarding one's faith.

131. Although the Constitution bans proselytizing, a growing number of people, including children, are being converted to other religions through foreign missionaries working in Nepal as well as by Nepalese missionaries.

### Constraints

132. As mentioned earlier, there is no legal provision to really help children communicate their thoughts and conscience.

## F. Freedom of association and of peaceful assembly (art. 15)

### Legislative provisions

133. Article 12.2 (b) of the Constitution guarantees its citizens, including children, the freedom to assemble peacefully and without arms. Complying with article 15 of the Convention, reasonable restriction can be imposed on the exercise of this right in order to safeguard the interests of national security, integrity, public safety or public order. The Constitution also provides its citizens the freedom to form unions and associations.

### Implementation

134. A few children belong to associations such as the Boy and Girl Scouts. However, neighbourhood friendship groups are very strong and provide for the social needs of children.

**Constraints**

135. As far as the legality of associations formed by children is concerned, the Government cannot register an association until its members possess Nepalese citizenship certificates, which are available only when individuals reach 16 years of age. Legally, children below the age of 16 cannot form an association.

## G. Protection of privacy (art. 16)

**Legislative provisions**

136. Article 22 of the Constitution states that, except as provided by law, the privacy of a person, house, property, documents, correspondence or information about anyone is inviolable. Hence, every citizen, including the child, is entitled to the right not to be subjected to arbitrary or unlawful interference in his/her privacy, family home or correspondence, and unlawful attacks on his/her honour or reputation. If such interference or attacks occur, a citizen can exercise the right to constitutional remedy under article 23 of the Constitution.

137. Under section 48 of the Children's Act, permission is required from parents or guardians before a child can be engaged in entertainment or cultural activities having a commercial purpose.

138. The Code of Conduct formulated by the Nepal Journalists' Association and the Nepal Press Council prohibits media persons from revealing the names of child offenders, rape victims and other children in difficult circumstances.

**Implementation**

139. Provisions framed under section 49 of the Children's Act allow only specified persons to attend proceedings of cases related to children in order to protect their privacy. The proceedings are heard in the closed bench of the Court. Children's cases must be taken up by a juvenile court or by a child bench. The name and address of the child cannot be disclosed to the public.

140. Under the Curse and Defamation Act 1959, parents and guardians may submit a complaint for remedy in favour of their child if anybody has caused harm to the reputation of the child.

**Constraints**

141. There is no legal provision to investigate cases where children are engaged in the advertisement of goods that are deemed harmful to children.

142. The Constitution states that the right to privacy is inviolable except in accordance with the law, but this law has yet to be formulated.

143. The identities of child offenders, rape victims, prostitutes and HIV-positive children continue to be disclosed by the media. Even the State-owned *Rising Nepal* and *Gorkhapatra* dailies have disclosed the identities

of child rape victims and women who have tested HIV-positive after returning from the brothels in India. Photographs of AIDS patients have also been published in the private press.

### H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

#### Legislative provisions

144. The Children's Act prohibits any cruel, degrading or inhuman treatment of the child, adding that a child below 10 shall not be liable to any type of punishment, even if he/she commits an act which is an offence under law. According to section 11 of the Act, if a child between 10 and 14 years old commits an offence that is punishable by a fine, the child shall be warned. If the offence is punishable by a prison term, the child shall be sentenced to prison for a term not exceeding six months. If the child is between the ages of 14 and 16, he/she shall be punished with half of the penalty prescribed by law for an adult.

145. The Act (sect. 15) also states that no child shall be subjected to handcuffs and fetters, solitary confinement or confinement with an adult prisoner.

146. The Constitution has abolished the death penalty and prohibits the practice of torture. Article 14 of the Constitution mentions that a person who is detained for investigation, trial or any other reason shall not be subjected to physical or mental torture, nor shall he/she be given any cruel, inhuman or degrading treatment. Any person so treated shall be compensated in a manner as determined by law.

147. If the court deems it reasonable to release a minor from judicial custody, it can release the minor on bail. If a person detains someone illegally, such a person shall be punished by a fine; if the detainee is a minor, the punishment shall be doubled.

#### Implementation

148. Nepal has been calling for active global cooperation against torture of any form. On 14 May 1991, Nepal became a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

149. No children are at present in prison for committing an offence. About 63 children live in various prisons with parents who are serving prison sentences. Some children who are in prison with their parents are being looked after by NGOs.

#### Constraints

150. The law relating to compensation for victims of illegal detention, torture and cruel, inhuman and degrading treatment has yet to be enacted. Such a bill, however, is likely to be tabled in the legislature during the summer session of this year.

151. Under Nepalese law, any child who is convicted of a crime and sentenced cannot be detained with adults. However, a separate prison for children does not exist. They are usually imprisoned with adults. Rehabilitation homes for children to be imprisoned for committing offences have yet to be built. As children are confined together with adults in jail, the police are likely to be just as harsh with children as they are with adults.

152. Despite legal provisions, children working as domestic servants are often beaten.

## VI. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

### A. Parental guidance (art. 5)

**Legislative provisions**

153. Section 7 of the Children's Acts allows parents, members of the family, guardians and teachers to scold and beat a child lightly if it is thought to be in the interest of the child and is not considered torture or cruel treatment. Similarly, section 39 gives the chief of a children's welfare home the right to lightly punish children living there in order to maintain discipline.

154. Various provisions in the Act require parents or guardians to provide their children with such food, clothing, education and medical treatment as their economic status will allow. It is the duty and responsibility of the parents or the guardians to provide appropriate direction and guidance to their children.

**Implementation**

155. Parents usually guide children in their education, health and well-being until marriage and, at times, well beyond. Apart from parents, young children are looked after by the extended family, including brothers and sisters who may just be a few years older.

156. Parenting education, as part of the Non-Formal Education programme, is a new effort to help mothers, particularly those who have undergone a post-literacy programme, to become good guardians. It is still at the stage of curriculum development.

**Constraints**

157. Parents' guidance sometimes runs counter to the individual interests of their children. Parents traditionally decide whom their children should marry, and what career they should follow.

158. In certain districts, it is reported that some parents have sent their daughters to India to work in brothels, which is punishable by law.

## B. Parental responsibilities (art. 18, paras. 1-2)

### Legislative provisions

159. Some provisions in the Children's Act state that parents have a common responsibility for the upbringing and development of the child.

160. Section 4 of the Act specifies that the duties of the parents are to provide their children with food, education, health and recreational facilities. The parents' responsibilities also include immunizing their children against diseases.

161. Section 14 prohibits offering a child to a deity for religious purposes. Section 16 of the Act states that nobody should engage children in immoral activities. Sections 4, 7, 14 and 15 of the Act prohibit parents or anyone from torturing or mistreating their children.

162. Section 3 of the chapter on Husband and Wife in the General Law states that children of divorced parents will be cared for by one of the parents. In case a child is below the age of five, the mother shall take care of the child until the child reaches that age. If a child is above five, the mother may take care of the child if she wants to or if she has not eloped. If she has eloped or refuses to look after the child, the father will take care of the child.

163. If the mother decides to take care of the child, the father shall provide the maintenance expenses for the child's food, clothing, education and medical treatment, commensurate with his income and status. If the father is taking care of the child, and the income of the mother is bigger than that of the father's, the mother shall bear the expenses as determined by an order of the court.

164. Section 25 of the Act prohibits any guardian from engaging a child in work that is beyond his or her physical capacity. The guardian is not allowed to dispose of the child's property with the ulterior motive of owning that property.

165. Under various provisions of the Act, local bodies and concerned authorities of HMG are required to render appropriate assistance to parents and legal guardians in their child-rearing responsibilities, and to ensure the development of institutions and facilities that look after children.

### Implementation

166. Even before the laws were enacted, parents have always felt it was their duty to look after their children.

167. Since women have the major responsibility of bringing up children, certain programmes have been introduced to empower women:

(a) Under the Production Credit for Rural Women (PCRW) programme, groups of women from disadvantaged families are given skills and access to

credit for income-generating activities. Women are organized into credit groups and given training in leadership and project planning. The women's credit groups then initiate health, nutrition, education, water supply and other programmes in their communities;

(b) NGOs are training female community health volunteers to involve women at the grass-roots level in providing maternal child health and family planning education, and facilitating health service delivery;

(c) Non-formal education programmes provide women confidence, leadership skills and functional knowledge as well as literacy and numeracy;

(d) Parenting education that is targeted mostly for women is meant to help them become good guardians.

168. The Government is encouraging families to practise family planning and have just two children so that parents can look after their children well.

169. TV programmes for women often include materials on how to look after children. NGOs, such as the Nutritious Food Programme, have been distributing flour, oil and sugar to women to feed their children.

170. Divorces agreed upon in court are a recent phenomenon in Nepal. This is a growing trend, with the rapid pace of urbanization taking place in the country. The courts normally discourage divorces, as children suffer when parents separate.

**Constraints**

171. There is no provision in the existing laws which obliges the State to provide assistance to parents and guardians to enable them to bring up their children properly.

172. Some parents do not place high value on school education. Poverty and excessive work prevent parents from giving adequate attention to the overall development of their children. Economic insecurity and high child mortality encourage large families. Women spend excessive time fetching fuel, fodder and water. Due to the heavy workload of impoverished households, children are seen as a workforce from a very young age.

## C. Separation from parents (art. 9)

**Legislative provisions**

173. In principle, Nepalese legislation does not allow a child to be separated from his/her parents against his/her will. When competent authorities, however, deem it necessary to serve the best interests of the child, a child may be separated from his/her parents. When a marriage is dissolved, when the parents live separately for other reasons or when the parents abuse and neglect the child, he/she may be separated from the parents.

174. Under article 21 of the Constitution, no citizen shall be exiled.

175. Section 3 of the chapter on Husband and Wife of the General Law stipulates that any child born within 272 days from the date of divorce shall be presumed, unless the contrary is proven, to be the child of the divorced husband. Such children will be cared for as explained in section B.

176. Section 2 of the chapter on Human Trafficking in the General Law prohibits the separation of a minor below the age of 16 from his/her parents or guardians without the consent of the guardian.

177. When a marriage is broken or when parents live separately for other reasons, a child living with one of the parents has the right to visit or stay for some time with the other parent. If separated parents cannot agree on the frequency of visits and the length of stay, the court may settle the issue. An adopted child can either meet or communicate by letters with the natural parents. If the child's parents cannot be located, he/she is free to mention their names if necessary (sects. 8, 9 and 10 of the Act).

178. Under the Prison Act, when a child is born of a jailed woman or when she has a child who is below two years old, the mother may keep her child until he/she reaches two years of age.

179. When both the parents go to prison, and there is no other family member to look after the child, the child is taken to a children's welfare home. Even then the child has the right to visit his/her parents in prison.

**Implementation**

180. Regarding lost children, the media, especially television, have been playing a very crucial role in informing the people about such incidents.

181. There are about 63 children living in the prisons of Nepal because their parents have committed a crime. An NGO, the Prisoners Assistance Mission, has been working to place these children in welfare centres. The NGO serves as a nexus between the child and the parents.

**Constraints**

182. Rapid population growth, degenerating economic conditions of poor families, shortage of agricultural land and lack of employment in the villages have forced many children to abandon their homes for the cities. In a survey carried out by Child Workers in Nepal in 1990, many children who left home voluntarily cited either neglect or abuse as their reason for leaving. However, some said they were attracted by city life.

## D. Family reunification (art. 10)

**Legislative provisions**

183. Effective provisions related to family reunification can be introduced only after concluding bilateral and multilateral agreements. Nepal has, so far, not entered into any agreement in this regard.

## E. Recovery of maintenance for the child (art. 27, para. 4)

### Legislative provisions

184. Section 3 of the chapter on Husband and Wife in the General Law stipulates that when the mother is looking after the child, the father must provide, in accordance with his means, reasonable financial support for food, clothing, education and medical treatment needed by the child. If the father is providing the care, and if the mother has an income that is greater than that of the father, the mother must provide for food, clothing, education and medical treatment of the child as per her means. This will be determined by the court.

185. Section 5 of the chapter on Partition states that if the father dies before the partition of property, the wife and children shall succeed to the share of the deceased. Section 10 of the same chapter stipulates that the father shall be responsible for the maintenance of his son. In case the father refuses to provide maintenance, he must give his son a share of the paternal property.

186. Section 40 of the Children's Act stipulates that if it is established that a father, mother or other family member has admitted a child to a children's welfare home or any similar institution by giving false particulars, such a child should be handed over to his/her father, mother or any family members, and all expenditures incurred during the maintenance of such a child shall be recovered from such persons. But the concerned child welfare home or institution shall not demand such expenditure from parents or members of the family who do not have any source of income or property.

### Implementation

187. As far as providing maintenance to children is concerned, the law is working well. However, partition of property normally takes place only when men get married.

## F. Children deprived of family environment (art. 20)

### Legislative provisions

188. Section 2 (e) of the Children's Act defines a helpless child as one who does not have any parents or family members to provide necessary care. A helpless child can also be one who has been rejected by the parents or family members, or one who does not have any means of livelihood. Chapters 3 and 4 of the Act provide for special protection and assistance to such children. Section 21 states that child welfare officers must make necessary arrangements to maintain such children. If close relatives of such children cannot be found, the child welfare officer or the chief district officer (CDO) can assign them to a willing individual or an institution for proper upbringing. The property of the child may be placed in the custody of a person, institution or child welfare home by drawing up a legal document of custody. Such a person or institution may make use of the income from such property for the maintenance, education and medical treatment of the child. Anyone can

apply to the child welfare officer to become the guardian of a child whose parents or close relatives are dead or, if alive, are unable to raise the child due to physical or mental incapacity. The child welfare officer may appoint the applicant as a guardian in conformity with existing regulations.

189. Various provisions have been set forth in chapter 4 of the Act for the welfare of the child. Provisions have been made for a Central Child Welfare Board, a District Child Welfare Board, children's welfare homes, children's rehabilitation homes, orphanages and centres for mentally retarded children. Under Nepalese legislative norms and principles, a child who is temporarily or permanently deprived of his/her family environment, or in whose own best interests, it is decided, cannot be allowed to remain in his/her family environment, is entitled to special protection and assistance provided by the State. Such a child is ensured of alternative care corresponding to the child's upbringing and his/her ethnic, religious, cultural and linguistic background.

**Implementation**

190. The Nepal Children's Organization, established in 1964, operates children's homes in all 75 districts of the Kingdom. Many of these children's homes provide food, lodging, education and medical care to orphans and economically disadvantaged children. The Paropakar Anathalaya, an orphanage, has been providing care and education to orphans since 1952. SOS Children's Villages provide food, lodging and education to about 900 children. Similarly, CWIN as well as the Child Development Society have set up a common room (children's home) in Kathmandu to rehabilitate children living in difficult circumstances.

**Constraints**

191. It is unknown how many children in Nepal are actually deprived of a family environment. The only ones we come across are the street children. It is estimated there are about 5,000 street children in Nepal, with 1,000-1,500 of them in Kathmandu alone. Only a comprehensive national survey will be able to determine the number of children without a family. The number of such children could run into tens of thousands. Although there are about 60 NGOs looking after the interests of children, very few are inclined towards rehabilitating such children.

## G. Adoption (art. 21)

**Legislative provisions**

192. The General Law as well as prevalent laws have recognized and allowed adoption. In adopting a child, one having the closest blood relation or belonging to the same clan as that of the adopter should be chosen. If this is not feasible, then a child can be adopted from other clans. According to the General Law, a male child may be adopted only if the adoptive parents do not have a son, while a girl child may be adopted only if the adoptive parents have no daughter.

193. Section 9 B of the chapter on Adoption in the General Law requires that the age difference between an adopted daughter and an adoptive father be at least 25 years.

194. According to section 11, no adoption made pursuant to the law shall be revoked, except for specific defaults. If the adopted son does not provide food and clothing to the adoptive parents befitting their status, squanders the family cash and property without prior consultation, or misbehaves with them, such parents may revoke the adoption. In such cases, the adopted son is entitled to a share of his natural father's property only.

195. Foreigners can also adopt Nepalese children under Nepalese law. A foreign national, however, will be allowed to adopt a child only after a thorough inquiry into the person's character and financial condition.

**Implementation**

196. There is a high incidence of non-formal adoption, especially by kin, although statistics are not known. Children are often taken into the family as servants, or to look after family members or the family business. Many of these children are well provided for, and when they grow up, enjoy a place in the family. Some are even given a piece of the family property when it is divided.

197. It is a common practice to adopt the young children of brothers and sisters if the natural parents have died or if the adoptive parents do not have any children of their own.

198. Some 512 children have been adopted by foreigners outside the country. (See annex III.)

**Constraints**

199. Records show that adopters prefer boys to girls in Nepal. As far as international adoption is concerned, there is little communication between the adopted children and their natural parents. International adoptions are not monitored.

## H. Illicit transfer and non-return (art. 11)

200. There are no provisions in the Children's Act regarding the kidnapping of children or the illicit transfer of children abroad. However, this is dealt with in the chapter on Human Trafficking in the General Law which prohibits the sale of human beings, making it a criminal offence. A section of the chapter prohibits taking persons out of the country for the purpose of selling them. Section 2 of this chapter prohibits the separation or enticement of a minor below the age of 16 without the consent of his/her guardian.

201. Under the Human Trafficking (Control) Act (1986), such an act is punishable by a 15-year prison term.

**Implementation**

202. There are instances when children have been adopted for exploitative purposes, particularly to force them into prostitution or labour. NGOs have done something to stop this. At present, their activities are limited to organizing seminars to evolve better policies to do away with these forms of exploitation, mostly the trafficking of girls across the border.

203. The American Foundation for AIDS Research (AMFAR) has been funding different NGOs in creating awareness about the AIDS virus in those districts where trafficking of girls is widespread. UNICEF, in coordination with local NGOs, is preparing for a national-level campaign to promote awareness of the trafficking of girls from Nepal to India.

204. Though film making is a recent development in Nepal, films on trafficking in girls have created awareness about the plight of such victims.

205. Every evening, Nepal TV informs viewers about lost children, while the police have a special department to look after lost people.

206. There are student groups in Bombay, India, that help children and women return safely to Nepal.

**Constraints**

207. Due to an open border with India, it is extremely difficult to stop the trafficking in children. It has been reported that some children are forced into begging or prostitution. In addition, some newspaper reports claim children are abducted to supply a growing demand for organs in the Indian market.

208. Nepal has not concluded any bilateral or multilateral agreements to bring back children who have been taken abroad illegally. With the exception of seminars, there is little cross-national activity or cooperation among NGOs or INGOs working in this field.

## I. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)

209. The Children's Act prohibits any form of abuse and neglect. It forbids anyone from engaging a child in begging or persuading a child to become a mendicant. It prohibits any person from involving a child in immoral professions, taking pornographic photographs of him/her giving permission to do so, or exhibiting or distributing such photographs. The publication and distribution of any photographs, personal records or details of the child which may be detrimental to his/her character is also prohibited.

210. The Act further prohibits employment of children in any work that is hazardous to their life or health. Parents, teachers, guardians and child welfare officers may penalize a child for indiscipline, but are not authorized to give corporal punishment, detain the child in solitary confinement or deny him/her food.

211. Section 2 of the chapter on Illegal Detention in the General Law prohibits the detention of minors without food. If a minor below 12 years of age dies in detention after being without food for three days and three nights, such a death shall be considered to be a homicide.

212. According to the General Law, sexual intercourse with a girl below the age of 16 is presumed to be rape.

213. To protect the abuse of the girl child, the General Law prohibits marriage between a girl who is below sixteen years of age and a boy who is below 18 years of age.

**Implementation**

214. NGOs have largely focused their activities on awareness creation. Their activities have been more preventive than rehabilitative. There are very few NGOs conducting rehabilitation programmes for children who have been abused or neglected.

**Constraints**

215. There is no competent agency or juvenile court to look into child abuse or neglect. Rehabilitation homes have yet to be established.

## J. Periodic review of placement (art. 25)

216. Section 26 of the Children's Act requires guardians to submit an annual report to the concerned child welfare officer that details of, among other things, the expenditures incurred in a child's (orphan's) subsistence, medical treatment and education. The officer may call upon the guardian to present the child before him/her for necessary inquiries.

217. Provisions under section 44 of the Act allow the inspection of the activities of child welfare homes, child rehabilitation centres, orphanages or similar institutions. In case of any wrong-doing, appropriate action may be initiated against the centres.

**Implementation**

218. Under prevalent laws, the Government has the right to inspect and issue directives to associations which are working for the interests of the child. Among others, the duties of the Child Welfare Board are to collect data relating to the centres, orphanages, centres for mentally retarded children and similar centres which are being run either by individuals or institutions in a district.

**Constraints**

219. There are no competent agencies to look into this. Due to resource constraints, facilities in these centres could not be upgraded even if they were reviewed periodically.

## VII. BASIC HEALTH AND WELFARE

### A. Survival and development (art. 6, para. 2)

220. Article 26 directs the State to pursue policies that will raise the people's standard of living through the development of education, health, housing and employment opportunities. It also directs the State to pursue such policies in the fields of education, health and social security that will ensure the protection and welfare of orphans, helpless women, the aged and the disabled.

221. The Children's Act mentions that it is the parent's duty to feed, support and raise children and to vaccinate them against various diseases. The Act also acknowledges that it is the State's obligation to provide advice, education and services relating to family planning and preventive health care to the parents (sect. 4).

**Implementation**

222. The following policies have been adopted by HMG to ensure the right of the child to survival and development.

#### 1. Preventive health services

223. Preventive health services to reduce infant and child mortality rates will be provided in an integrated way at the rural level through sub-health posts, health posts and primary health-care centres. These services include: family planning and maternity and child health care (MCH); nutrition programmes to overcome anaemia and deficiency in vitamin A, iron and iodine; Expanded Programme of Immunization (EPI); safe motherhood; control of diarrhoea, acute respiratory infections (ARI), tuberculosis, leprosy, malaria and Kala-azar; prevention and control of communicable diseases; prevention of non-communicable diseases; initiation of primary health services in urban slums; and prevention and control of AIDS.

#### 2. Promotional health services

224. The poor health of the children can be greatly attributed to a lack of public awareness about proper health care. Therefore, health education is to be provided in an effective manner down to the rural level. For this purpose, political workers, teachers, students, social organizations and volunteers will be mobilized at the community level, within the framework of the National Health Information, Education and Communication Plan.

225. Priority will also be given to promoting breast-feeding for at least the first four to six months of an infant's life, while regularly monitoring the child's growth to prevent malnutrition. Under the programme, bottle feeding will be discouraged. Iodine deficiency disorders as well as deficiencies in iron and vitamin A will be prevented. Health education that will enable mothers to meet the nutritional requirements of their children through locally available food will also be given.

226. Environmental health programmes will be coordinated to inform the people about personal hygiene through various media. Efforts will be made to collect and manage solid waste as well as to inspect and examine food sold in restaurants and in the streets. Drinking water will also be tested regularly. Construction of public latrines and urinals will be undertaken, and smoking in public places will be discouraged.

### 3. Basic primary health services

227. Sub-health posts will be established in phases in all the village development committees. Each sub-health post will have a village health worker, an auxiliary health worker, and an MCH worker. These sub-health posts will provide curative, promotional and preventive health services. Such services will include immunization, family planning, maternity and child health care, and education on health, environment, nutrition and sanitation.

228. The Government's health and nutrition programme is strengthening the country's health system by involving women in outreach services from health and sub-health posts. A total of 65,000 female community health volunteers (FCHVs) and 30,000 traditional birth attendants (TBAs) are being trained for the purpose. The existing village health workers, who are mostly males, have not been effective in providing health services at the grass-roots level, particularly to women.

#### Constraints

229. Resource constraints, poor infrastructure, especially in the rural areas, a high population growth rate and illiteracy pose problems for the survival and development of the child. A low level of public awareness and ignorance about health care, nutrition and the legal rights of the child are other constraints. There is also a shortage of trained health manpower to deliver even the basic health services.

## B. Disabled children (art. 23)

#### Legislative provisions

230. The Constitution, the Children's Act and other rules and regulations in force recognize the physically or mentally disabled child's right to enjoy a decent life, and grow up in an environment that will ensure dignity, promote self-reliance and facilitate the child's active participation in the community. Provisions in the Education Act (1971) as well as in the Education Regulations (1992) provide for special education to blind, mute, deaf, disabled and mentally retarded children. Similarly, the Social Welfare Act (1992) has a provision to carry out special programmes for the benefit and welfare of the child, the aged, the indigent or the disabled. Certain provisions in the Children's Act require the establishment of centres for the mentally retarded, orphans and the disabled. The Disabled Protection and Welfare Act (1982) shows the Government's adherence to the commitments made during the International Year of Disabled Persons (1981). This Act states that disabled persons, including children, are fully entitled to become members of any educational, social, cultural or training association and are also entitled to political, economic and social security rights and the right

to gainful employment in any government or public service, depending upon their abilities. The Disabled Protection Act further states that provisions shall be made for free education, necessary health-care services, appropriate training and employment opportunities for disabled persons.

**Implementation**

231. The Eighth Plan has incorporated programmes for the disabled in the education and health sectors. During the Seventh Plan period (1985-1990), three programmes for the disabled were initiated: the Prevention of Blindness project, The Disabled Rehabilitation programme and the Survey and Treatment of Deafness.

232. The education and health policies of HMG have included special education for the disabled. The blind and visually handicapped children have been integrated into the mainstream education system. Special education has also been introduced to cater to the needs of children with severe disabilities.

233. In the health sector, major hospitals in the capital and other large cities provide orthopaedic and ear, nose and throat services. NGOs such as the Khagendra New Life Centre and Nepal Netra Jyoti Sangh, a blindness prevention project, enable disabled persons to participate in the development process of the country. Several programmes were launched for the disabled by NGOs during the United Nations Decade of Disabled Persons (1983-1992).

234. There are now about 16 organizations that provide special education and vocational training to disabled people, including children. An NGO, the Nepal Association for the Welfare of the Blind (NAWB), has established 21 residential schools with 217 students, besides operating non-residential integrated programmes for blind and visually handicapped students in some primary schools. An SOS Children's Village provides services to 41 handicapped orphans.

235. Tribhuvan University, with help from NAWB, has begun a training course for teachers engaged in tutoring the blind and the visually handicapped in secondary and primary schools. In 1982, three schools were started by the Welfare Society for the Hearing Impaired. At present, a total of 327 students are studying there. Centres for the hearing impaired have also been started recently by the Kathmandu Deaf Association. The association provides education to about 60 students. From 1987 to 1993, many blind people benefited from the community-based rehabilitation programmes run by NAWB. Some 2,842 persons received counselling, 385 were involved in income-generating activities, 23,662 received health care, 32,208 got vitamin A tablets, while 37 were enrolled in various schools. At present, 265 blind children (175 boys and 90 girls) are studying in different schools throughout the country.

236. Altogether 12 institutions, mostly in the non-governmental sector, are involved in providing special training and rehabilitation to disabled children. However, these services benefit only about 3,000 children. During 1990-1993, a total of 1,100 disabled children were admitted to 42 different schools for special education, while 25 disabled persons got teaching jobs.

237. The institution-based approach is not cost-effective and is socially less preferable as it isolates the disabled from the family and the community. Community-based rehabilitation is now the preferred approach. The family and the community are encouraged to work together in rehabilitating the disabled with necessary support from the Government, NGOs and community volunteers. Such programmes for the disabled have already been implemented in two districts: Kavre, in central Nepal, and Sunsari, in the east.

238. During the United Nations Decade of the Disabled Persons, NAWB set up 17 integrated special schools for mentally retarded children in different parts of the Kingdom. The Community-Based Rehabilitation (CBR) programme started by NAWB today covers eight districts. So far 1,650 persons have benefited from the programme and most of them are gainfully employed in income-generating activities. Another 4,100 persons have indirectly benefited from the CBR programme.

239. The Nepal Disabled Association has also started CBR programmes at three places in the Kathmandu Valley.

240. In 1993, UNICEF helped establish the Federation of the Disabled, an organization operated by the disabled themselves. The Federation believes that the welfare of the disabled, including children, can be improved if the disabled are given a voice in their own affairs. The Federation's programmes have been mainly communicative in nature, with the media highlighting their problems. It is trying to involve NGOs in introducing income-generating activities. A preliminary draft for a national Disabled Persons Act has been developed and presented to the Ministry of Education and Social Welfare.

**Table 3**

**Disabled persons enrolled as students or working as teachers in schools**

| Disability | No. Teachers | No. Students | Total |
|---|---|---|---|
| Blind | 51 | 245 | 296 |
| Mentally retarded | 55 | 386 | 441 |
| Deaf | 52 | 396 | 448 |
| Physically disabled | 16 | 145 | 161 |
| **Total** | **174** | **1 172** | **1 346** |

Source: Ministry of Education, Culture and Social Welfare, 1993.

**Constraints**

241. There is little information on the precise number of disabled persons in the country, making it difficult to frame effective policies and programmes. Estimates of disabled persons vary from 0.5 per cent of the total population

to 3 per cent, whereas WHO estimates that about 10 per cent of the Nepalese population are disabled. A survey conducted by the Maryknoll Fathers order shows that 4.5 per cent of Nepalese children are mentally retarded. If this figure is accepted, then Nepal's disabled population may exceed 15 per cent.

242. Despite all the laws enacted, disabled people do not have access to employment opportunities. Most of the programmes for the disabled are concentrated in cities.

## C. Health and health services (art. 24)

### Legislative provisions

243. Under section 4 of the Children's Act, parents are obliged to make arrangements to bring up the child and to provide health care, education and recreational facilities, while it is the responsibility of the Government to render assistance in making arrangements for the proper health care of pregnant mothers and to provide services relating to family planning. The Act states that the parents or guardians of the child shall "ensure that their child will be given the vaccinations necessary to protect the child from diseases".

244. The Breastmilk Substitutes (Marketing Control) Act (1992) has provisions to encourage breast-feeding, while seeing that breastmilk substitutes are of high quality.

### Implementation

245. Health services for children are provided through the extensive vaccination programme, health service camps, and health institutions such as Kanti Children's Hospital as well as regional and district level hospitals. At the NGO level, the Child Development Society has established the Siddhi Memorial Women and Children's Hospital. The Nepal Disabled Association has a 32-bed paediatric orthopaedic hospital, built with assistance from Terre des Hommes of Switzerland. In this hospital about 1,500 orthopaedic operations are performed every year, many of them on children.

246. Due to improved coverage of basic health services over the years, the under-five mortality rate has gone down from 165 per 1,000 in 1990/91 to 153 per 1,000 in 1993/94. (For Nepal's Goals for Children for the year 2000 relating to health, nutrition, water and sanitation, refer to annex II. For the situation of health services in Nepal as of 1992-1993, refer to annex IV.)

#### 1. Immunization

247. By 1990, the Expanded Programme of Immunization (EPI) had achieved high levels of vaccination coverage. Since then there has been a decline. During the 1990s, immunization coverage is to be expanded to at least 80 per cent of the population for all antigens. By achieving this high level of protection, EPI hopes to control vaccine-preventable diseases and eventually eradicate them. The Government intends to achieve these goals by strengthening sentinel sites, improving the capacity of the Ministry of Health (Epidemiology Division), and providing training to district-based medical and paramedical

staff on surveillance methods and ways to investigate the outbreak of these diseases. To ensure the sustainability of the programme, the following measures are being undertaken:

(a) Use all public health facilities, including hospitals, health posts and maternity and child health clinics, for immunizing the target population;

(b) Raise public demand for vaccinations through expanded social mobilization by means of such media as radio, TV and posters as well as door-to-door communication by volunteers;

(c) Train additional personnel and volunteers;

(d) Reduce missed opportunities and lower the high drop-out rates by increasing accessibility to vaccination services, by making health services more "women-friendly" and through improved monitoring.

### 2. Control of diarrhoeal diseases (CDD)

248. The National Health Policy has accorded high priority to CDD in order to reduce the morbidity and mortality rates caused by diarrhoeal diseases. Countrywide household case management surveys conducted in 1985 and 1990 show that modest achievements have been made in reducing diarrhoeal incidence. A review of the CDD programme in 1991 confirmed that there was increased ORT awareness among child caretakers and health workers, and that the potential access of the population to oral rehydration solution (ORS) was improving.

249. Emphasis is being placed on family education, particularly for caretakers of young children, to promote ORS and ensure that the therapy is used correctly.

250. The national policy is to provide child survival education to trained female community health volunteers, traditional birth attendants, and participants of the Production Credit for Rural Women programme and the Small Farmer Development Programme (SFDF). Schoolteachers, mothers' groups and local water and forest users' groups are also involved in promoting ORS. To supplement government efforts in this endeavour, various organizations such as the Family Planning Association of Nepal, the Red Cross Society, Contraceptive Retail Sales Ltd., Royal Drugs Ltd., and the Nepal Scouts are being mobilized. The morbidity as well as mortality rates due to diarrhoeal diseases have decreased in the last two years from a case fatality rate of 1.95 per cent in 1991 to 1.39 per cent in 1992 (Third Monitoring of Progress, MOH, HMG, Nepal/WHO, Feb. 1994).

### 3. Acute respiratory infections (ARI)

251. The general objective of the ARI control programme is to reduce the mortality caused by ARI (particularly pneumonia) in children under five years of age through correct case detection and timely and appropriate antibiotic treatment. Pneumonia case detection and treatment are to be extended beyond the Health Post and into the community through the village health workers and

female community health volunteers. Stress is being laid on early diagnosis and treatment of ARI. Use of tobacco and exposure to cold and indoor smoke will be addressed.

252. In 1993, UNICEF, USAID and WHO collaborated with the Public Health Department to formulate a plan to strengthen ARI control activities in four districts.

### 4. Safe motherhood

253. An estimated 800,000 pregnancies occur in Nepal every year. Of these, 20 per cent are considered high risks to the mother and child. Safe Motherhood, a priority programme of the new national health policy of HMG, has a target of reducing the estimated maternal mortality rate in the country from 850 per 100,000 to 400 per 100,000 live births by the year 2000. However, the recently completed Nepal Fertility Planning and Health Status Survey (1991-1992), conducted by UNFPA and the Ministry of Health, puts the maternal mortality rate at 515 per 100,000 live births. The main focus of the Safe Motherhood programme, formulated in April 1994, is to improve maternity care services, including family planning services, at all levels of the health-care delivery system, and in the community. In Nepal, 23 per cent of the total population are women of child-bearing age (15-45 years). Programmes for safe motherhood aim at providing women with knowledge about health, especially hygienic conditions for home delivery, giving them access to services for child spacing, and delivering prenatal and postnatal care by trained birth attendants. The programme also includes provision of referral services, and the promotion of breast feeding and proper nutrition.

### 5. Nutrition

254. Malnutrition among children is largely a result of poverty. The Eighth Plan has, therefore, given priority to poverty alleviation within identified disadvantaged communities. Various ministries (Education, Health, Agriculture, and Local Development), NGOs and INGOs, especially the World Food programme, are carrying out programmes to improve nutritional levels of children and adults alike. The NGO-run Nutritious Food Programme reaches some children who are nutritionally at risk. Its Community Feeding programme provides food supplements to moderately or severely malnourished children, pregnant mothers and lactating mothers from poor households. In the Primary School Feeding programme, the intended beneficiaries are all children attending school. Meals at school not only improve nutrition, but also raise school attendance among the poor, and particularly among girls. Nutrition-related activities are also being carried out through the SFDP and the PCRW programmes.

255. Nutrition interventions also aim at reducing vitamin A deficiency and iodine deficiency disorders, and anaemia caused by iron deficiency in women. Programmes to reduce micronutrient deficiency disorders include regularly monitoring the growth of children, treating severe cases of malnutrition, providing micronutrient supplements of vitamin A, iron and iodine, increasing consumption of iodized salts, and encouraging family production and consumption of green and yellow vegetables. A national vitamin A policy has been developed in cooperation with NGOs. The first round of vitamin A capsule

distribution was completed in 16 of the 32 districts with endemic vitamin A deficiency, covering 91 per cent or approximately 700,000 children; the second round of vitamin A capsule distribution was completed in 12 districts, covering 89 per cent or approximately 1 million children. Some 3.5 million vitamin A capsules are distributed annually.

### 6. Provision of clean drinking water, and hygiene and sanitation awareness

256. Extending drinking water facilities to the entire population is one of the priorities of the Government. Gravity flow systems in the hills and mountains and tube wells in the Terai are being expanded. The Government has a goal of providing 75 per cent of the rural population and 90 per cent of the urban population with clean water by the year 2000. The policy of the Government is to maximize community participation in the implementation and management of water systems in rural areas.

257. The Government's Department of Water Supply and Sewerage, in coordination with NGOs and INGOs, conducts hygiene and sanitation education activities in all 75 districts of the Kingdom. Community-based female motivators work at the grass-roots level, directing their efforts primarily at women, to create healthy household and community environments. The Government and donors support the construction of facilities for the safe disposal of excreta, waste and waste water. Since diarrhoeal diseases are a major cause of child mortality in Nepal, the programme integrates hygiene and sanitation skills and awareness into every safe drinking water project.

**Table 4**

**National budget allocation for health and nutrition activities (1988/89-1994/95)**

| | 1988/89 | 1989/90 | 1990/91 | 1991/92 | 1992/93 | 1993/94 | 1994/95 |
|---|---|---|---|---|---|---|---|
| Percentage of total national budget | 5.57 | 4.6 | 4.47 | 3.84 | 3.61 | 4.11 | 5.16 |

258. The national budget amounted to NRs 19.52 billion in 1988/89, NRs 20.24 billion in 1989/90, NRs 19.79 billion in 1990/91, NRs 26.64 billion in 1991/92, NRs 33.59 billion in 1992/93, NRs 35.51 billion in 1993/94, and will amount to NRs 39.91 billion in 1994/95. The exchange rate of 1 US dollar is Nepalese rupees 49.02 in the local market at present. The value of the rupee has steadily declined over the years. It is likely to decline further.

**Constraints**

259. Despite continued attempts, health standards remain low. Health services are available to about 15 per cent of the population. The infant mortality rate (102 per 1,000) is among the highest in the world and a life expectancy of 54.4 years is among the lowest. Life expectancy is lower for women than for men.

260. About 80 per cent of under-five mortality and morbidity is caused by diseases that are preventable such as diarrhoea, acute respiratory infections, and vaccine-preventable diseases. Malnutrition is rampant among children in rural areas and among the urban poor.

261. Diarrhoeal diseases, acute respiratory infections, parasitic infestations and complications and illnesses associated with pregnancy and childbirth are extremely high. Inadequate distribution of health institutions, lack of trained manpower, a weak health management information system, and lack of proper equipment and medicines in hospitals and health posts pose problems to the development of the health status of the people.

262. ARI continues to be a major problem in Nepal. About 20 per cent to 35 per cent of all under-five deaths are due to pneumonia. ARI morbidity in Nepal is estimated at five episodes per child per year.

263. Despite efforts, CDD is losing its momentum, and diarrhoeal diseases annually kill about 28,000 children under five. Approximately 28 per cent of all childhood deaths are associated with diarrhoeal diseases.

264. Prenatal and postnatal services are greatly lacking. Family planning services have not been as effective as desired. Birth spacing is not widely practised in Nepal. Superstitious, unsound health practices and heavy reliance on local faith healers often produce tragic results, especially in the rural areas. Inadequate or usually non-existent sanitation facilities in the rural areas also cause health and environmental problems.

## D. Social security and child-care services and facilities (arts. 26 and 18, para. 3)

### Legislative provisions

265. Article 26(9) proclaims that the State shall adopt policies in matters of education, health and social security for the protection and welfare of orphans, helpless women, the aged and the disabled.

266. The Village Development Committee Act (1991) states that the village development committees shall carry out programmes for the benefit and welfare of children and women.

267. The Labour Act (1992) entitles children of working parents to child-care services and facilities. An industry that employs 50 or more women employees on its staff is required to have a children's room, equipped with toys, and a trained maid to look after the children. Women employees shall be given adequate time for breast-feeding their children.

### Implementation

268. The Government does not provide any economic support to families to help bring up their children. The Nepal Children's Organization and SOS Children's

Village provide child-care services to orphans. Since the 1950s, child-care institutions have been expanding. Sending children to nurseries has become common in urban areas. In the rural areas, day care centres for working mothers, a brain-child of UNICEF, have had limited success.

269. Some of the social welfare programmes that have been included in the current Eighth Plan period are described in the following paragraphs:

270. **Child welfare.** Some 186 day care centres will be established by NGOs. General scholarships will be given to 88,020 students and family scholarships to 550 students.

271. **Services for the disabled and helpless.** Fifty-six day care centres and 121 schools for mentally retarded children will be set up. There are plans to open 11 hostels for the disabled, provide general education to 305 disabled persons, and fit artificial limbs on 120 disabled persons.

272. **Social welfare centres**. These are specifically meant for children of backward communities and ethnic groups. A total of eight centres will be established during the plan period. Seven centres, in which 208 children are provided food, shelter and education, have become operational.

273. **Social protective scholarship programme**. This programme has been set up to benefit children from backward communities who are found to be engaged in anti-social activities. Scholarships will be given to about 4,000 children. This will enable them to receive education and various kinds of training. By 1993, 710 scholarships had already been distributed.

274. **Child shelter centres.** These centres will provide shelter and vocational training to street children. One hundred street children (50 from Kathmandu and 50 from Pokhara in mid-west Nepal) will find homes in the centres.

275. The Early Childhood Education and Care project within the Education programme promotes home-based child-care activities and parenting education, as well as community-based child-care centres. Child development activities help reduce the child-care work burden of older girls, allowing them to attend school. Child-care centres also provide a venue to monitor health and nutritional levels of children. The programme is targeted for children up to five years of age. The programme involves setting up child-care centres for children up to three years of age and pre-primary schools for children of three to five years. Due to the child-care burden of many households, many under-aged children are attending primary school class 1.

**Constraints**

276. Lack of gainful employment in the villages has forced some children to abandon their homes for the cities. Many children leave home due to neglect or abuse. The number of street children will continue to grow in the years to come unless efforts are made to improve the quality of life in rural areas, especially in the hills.

## E. Standard of living (art. 27)

### Legislative provisions

277. The chapter on Husband and Wife in the General Law states that when parents live separately and the mother is looking after the child, the father shall provide maintenance expenses for the food, clothing, education and medical treatment of the child commensurate to his income. However, if the father looks after the child and if the mother has a greater income than that of the father, it is the duty of the mother to bear such expenses.

278. The son is entitled to a partition of the paternal property if he feels he is not being brought up in accordance with the financial status of his father.

### Implementation

279. The major thrusts of the current Eighth Plan are sustainable development and poverty alleviation. Many programmes are being implemented to raise the living standard of people living below the poverty line.

280. The SFDP organizes groups of low-income farmers and provides them with leadership training, and access to credit and skills with which to initiate income-generating activities. In cooperation with Government, NGOs and INGOs, it supports the training and education of women in child survival, nutrition and hygiene. The project hopes to raise the incomes and overall quality of life of over 300,000 "very poor" families which have a per capita income of US$ 50 or less.

281. The PCRW programme organizes women of the poorest families into action groups which receive credit and skills training for income-generating schemes, and serve as entry points for self-initiated community development projects in health, nutrition, water supply and education. HMG has introduced programmes like "Let's Develop Our Own Village", a programme for indigenous people, and a small-scale programme which are specifically targeted to the poorest. In addition, a small-scale programme has been initiated to provide scholarships to disadvantaged children.

### Constraints

282. The daughter under the age of 35 does not have the right to claim a share of the parental property even if she is not provided proper lodging and food.

283. Law does not prescribe what a minimum standard of living is. Until this is done, discrimination between the son and the daughter will persist.

## VIII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

### A. Education, including vocational training and guidance (art. 28)

**Legislative provisions**

284. Article 26(8) of the Constitution declares that the State shall make necessary arrangements to safeguard the rights and interests of children, shall ensure that they are not exploited and shall make arrangements for free education.

285. Article 26(9) proclaims that the State shall adopt policies of education, health and social security that will ensure the welfare and protection of orphans, helpless women, the aged and the disabled.

286. Article 18 of the Constitution provides each community residing within Nepal the right to preserve and promote its own language, script and culture as well as the right to operate schools up to the primary level in its mother tongue. This has also helped to preserve ethnic and other cultural identities.

287. The Labour Act and the Children's Act have provisions that require industries, especially tea plantations, to establish primary schools if there are more than 50 children between 5 and 14 years old and there is no primary school within a radius of 1 kilometre from a given industry.

**Implementation**

288. Since the advent of democracy in Nepal in 1951, successive Governments have realized that national prosperity depends upon educational development. A survey of the educational scene since then appears to bear out the oft-repeated claim that Nepal has made significant advances over the last 40 years. The establishment of the National Education Planning Commission in 1954, the Comprehensive National Education Committee in 1961, the National Education Advisory Council in 1967, the National Education System Plan in 1971, and the Basic and Primary Education programme, among others, are examples of the country's commitment to education.

289. For the fiscal year 1993/94, the Government allocated 44.52 per cent of the education budget to primary education, whereas the total education budget took 12.76 per cent of the total national budget. This shows the Government's commitment to strive for universal primary education. The budget allocated to the education sector from 1988/89 to 1994/95 is given below:

**Table 5**

**National budget allocation for education (1988/89-1994/95)**

| | 1988/89 | 1989/90 | 1990/91 | 1991/92 | 1992/93 | 1993/94 | 1994/95 |
|---|---|---|---|---|---|---|---|
| Percentage of total national budget | 8.92 | 10.30 | 10.40 | 12.00 | 12.65 | 12.76 | 13.6 |

290. Two projects, the Basic and Primary Education project and the Primary Education Development project, were implemented in July 1992 to improve the curriculum, textbooks, supervision system, physical facilities, examination system and training of teachers of both formal and non-formal education. The Ministry of Education, Culture and Social Welfare has been executing the Primary Education project with support from the World Bank, the International Development Association and UNICEF since September 1984 to achieve a cost-effective qualitative improvement in primary education and to strengthen administrative and technical capacity from the central to the district levels.

291. Educational policies to be implemented during the Eighth Plan period are:

(a) Universalize primary education, and raise the literacy rate to 67 per cent by the year 2000;

(b) Provide local bodies with the necessary authority to implement a free and compulsory education system;

(c) Promote primary education by providing the necessary physical facilities and teachers;

(d) Provide scholarships, awards and uniforms to girls so as to raise their enrolment and reduce their drop-out rate;

(e) Emphasize the Non-Formal Education programme through governmental organizations as well as NGOs;

(f) Strengthen special education programmes;

(g) Encourage private sector participation to upgrade educational standards in the country;

(h) Take appropriate measures, including teachers' training, to improve the quality of schools;

(i) Upgrade the school curriculum so as to make it appropriate to the situation of present-day Nepal;

(j) Promote art as well as cultural activities;

(k) Encourage research activities aimed at making education more relevant to the country's needs;

(l) Implement the Basic and Primary Education project in all districts.

### 1. Primary education

292. Education in Nepal has expanded immensely over the last four decades. In 1951, there were a little over 400 (203 primary, 200 middle and 11 secondary) schools with 10,650 students in the country. By 1993, the total number of schools and students had increased to 26,037 and 3.9 million respectively. Of these, 19,498 were primary schools. In 1990, about 75,000 primary school teachers were engaged in teaching 2.9 million students. (For sectoral distribution of schools, students and teachers in Nepal, refer to annex VI.)

293. School tuition up to class IX is free. Primary education textbooks are distributed free of cost to girls up to class V. For boys, textbooks up to class III are free. For boys living in the 18 designated remote districts, textbooks up to class V are provided free of cost. However, there is no legal provision that makes primary education compulsory.

294. Enrolment in primary school is increasing rapidly. As a result, almost 80 per cent of children between 6 and 10 years old are attending school. The enrolment of girls, however, is only about 38 per cent (1,161,806 girls). The Government's target is to attain 100 per cent enrolment by the year 2000. The primary education curriculum is being modified to reduce the drop-out rate, especially of girl children. In-service training and the training of teachers through radio programmes is being stepped up to provide quality education in schools.

295. Nepal has approved the recommendations of the World Conference on Education for All held in Thailand in 1990. Nepal has also acceded to the World Declaration on the Protection, Preservation and Development of Children, adopted by the World Summit on Children held in September 1990. In this connection, the country has drawn up a work plan, for implementation in the 1990s. It aims at increasing primary school enrolment from the present 77 per cent to 100 per cent by the year 2000. Another target is to double the percentage of children completing primary education from the present 35 per cent.

296. The Ministry of Education, Culture and Social Welfare is adopting the following policies and strategies on primary education during the current Eighth Plan:

(a) Access to basic and primary education will be expanded by increasing the number of primary schools;

(b) A feasibility study will be undertaken to make primary education compulsory. Accordingly, necessary arrangements will be made to empower local bodies to enforce free and compulsory primary education;

(c) The Basic and Primary Education project (BPEP) will be gradually implemented in all the districts of the country.

297. New textbooks and a new curriculum are being developed for the country's primary schools to improve the quality of teaching and learning in the primary school system. New textbooks for up to class 3 have been introduced throughout the Kingdom. All headmasters and teachers in the country for primary classes 1 through 3 have been given orientations in the new materials and curriculum. Since 60 per cent of the primary school teachers are untrained, this orientation has often been the only training they have received.

**Constraints**

298. Despite tremendous growth in the education sector, Nepal still faces many challenges. Children in remote areas do not have access to even basic education, although primary education is free. A policy document of the Ministry of Education, Culture and Social Welfare, brought out in 1990, identifies the key issues adversely affecting primary and basic education as low school enrolment, very low enrolment of girl children, high drop-out and repeater rates, poor quality of instruction, inadequate instructional materials, poor school management, under-utilization of community resources, and poor performance of students.

299. **Problems affecting primary education are the following:**

(a) There is high drop-out rate, in particular because children are an important workforce;

(b) Schools are often located far from the children's homes, which discourages some children from going to school;

(c) Most of the primary school teachers are untrained. The recent primary-level curriculum orientations may be the only training they have had;

(d) Caste discrimination is a major reason among lower caste groups for staying away from school;

(e) Many parents are unable to pay for the costs of uniforms and textbooks.

300. **Factors affecting the low enrolment and high drop-out rate of girl children in primary school are the following:**

(a) Girl children must look after domestic chores and child-care activities;

(b) Classrooms are not "girl-friendly" due to the incapacity of male teachers and the lack of female teachers. The Government has plans to include at least one female teacher in each primary school;

(c) Many families hold traditional views that a girl's education is not necessary and is a waste of money as she will be married off. Many girls are still married off at a very young age;

(d) In some traditional Hindu communities, especially in southern Nepal, it is thought that girls should be segregated from men and boys.

### 2. Secondary education

301. Secondary education in Nepal consists of a lower secondary level, comprising of classes 6, 7 and 8, and a secondary level of classes 9 and 10. Since 1992, tuition fees for lower secondary education have been waived as part of the programme to make secondary education free. From 1995, education will be free up to class 9. There were 4,092 lower secondary schools in 1991, an increase of 128 schools over 1990. Similarly, secondary schools increased from 1,953 in 1990 to 2,081 in 1991.

302. In 1992, there were 4,230 lower secondary schools and 2,309 secondary schools, with 433,428 and 421,709 students respectively. Secondary education is, thus, becoming more available to students completing primary school. After the completion of class 10, students sit for a government examination which is called the School Leaving Certificate exam. The Government intends to make secondary education free in phases. The Government has permitted 97 secondary schools in different districts of the Kingdom to start higher secondary education which includes two additional years above class 10. A total of 41,000 girl students, including primary students, were provided scholarships to continue their studies in schools and campuses.

303. The Government implemented a Science Education Project from 1985 to 1991 to improve teaching standards in science, mathematics and English in secondary schools. A more comprehensive Secondary Education Development project to promote reforms in all aspects of secondary education was initiated in 1993, with support from the Asian Development Bank.

#### Problems of secondary education

304. Only 38 per cent of the students enrolled in primary schools are girls, while the figure is 33 per cent in the lower secondary and 30 per cent in the secondary schools. Most public schools lack qualified teachers and instructional materials. Obviously, the quality of education in these schools is very poor. Students are especially weak in science, mathematics, English and vocational subjects, leading to a high failure rate in the government examinations. Education in private schools is very expensive in comparison to public schools. The quality of education in private schools is often poor even though they are expensive.

### 3. Non-formal education

305. In Nepal, the literacy movement occupies a major position among the non-formal educational activities. The literacy programme encompasses two groups of people: adult illiterates between the ages of 15 and 45,

and out-of-school children between the ages of 8 and 14. The literacy campaign has been extended to one district in each of the five Development Regions. As a result, 100,000 illiterate adults became literate in 1990 alone. Many governmental and non-governmental organizations are involved in NFE.

306. The following agencies are working to extend the NFE programme:

(a) National Council for Non-Formal Education;

(b) District Committee for the Development of Non-Formal Education;

(c) District Education Office, NFE Unit;

(d) Village Literacy Campaign Committee;

(e) Regional Directorate, NFE Unit.

307. For some of the children between the ages of 6 and 14 who are not attending school, basic literacy, numeracy and functional skills are provided through non-formal programmes, such as *Chelibeti* and *Sikchhya Sadan*.

308. Under the Education Regulation (1992), a National Council for Non-Formal Education has been constituted to formulate policies, coordinate programmes, carry out follow-up activities and supervise non-formal education. The Council, comprising representatives from various related ministries and NGOs, is chaired by the Minister of Education, Culture and Social Welfare.

**Table 6**

**Implementation of the Non-Formal Education programme (1993/94)**

| Institution | Out-of-school programme | Adult education | Total |
|---|---|---|---|
| NFE Section (MOE) | 10 007 | 62 326 | 72 333 |
| BPEP Section | 22 550 | 52 100 | 742 650 |
| PCRW | 6 128 | 14 780 | 20 908 |
| SFDP | - | 22 300 | 22 300 |
| World Education | - | 3 675 | 3 675 |
| UNICEF-funded NGOs | 26 520 | 108 890 | 135 410 |
| Other NGOs | 12 325 | 66 984 | 79 309 |
| NGO Free Text | 138 | 6 820 | 6 958 |
| Total | 77 668 | 337 875 | 415 543 |

Source: Ministry of Education, Culture, and Social Welfare, 1993.

**Constraints**

309. Although non-formal education has a major role to play in a country like Nepal where the literacy rate is miserably low, the amount spent on it is as low as 0.3 per cent of the total education budget. Of this, the foreign aid component stands at 42.3 per cent. Not surprisingly, the progress achieved is far from satisfactory. The situation is further exacerbated by unstable and random approaches taken to implement policies and programmes, shortage of educational materials, absence of structural arrangements, and lack of evaluation and follow-up. NFE faces problems related to policy, coordination, uniformity and technical aspects.

### 4. Vocational education

310. Vocational training is provided through different programmes run by the Ministry of Education and Culture, the Ministry of Labour and the Ministry of Industry. The technical schools under the Ministry of Education, Culture and Social Welfare provide training in various trades to school undergraduates. These institutions are located in different parts of the country such as Doti, Jumla, Banke and Dang in west Nepal; Jiri, Bhaktapur and Balaju in central Nepal; and Siraha and Dhankuta in east Nepal. The private sector operates eight CMA campuses. Although a vocational subject is supposed to be taught in all secondary schools, this has not proved effective.

311. In recent times, a number of private institutions have sprung up in the cities. They provide training in secretarial science, computers and office management. The institutes of medicine, agriculture and engineering run basic-level training programmes for secondary level students. With growing foreign investment and economic opportunities, the demand for technical and vocational schools has been growing. However, existing technical schools are unable to meet the public demand. Moreover, some of the institutes lack qualified teachers and appropriate and adequate instructional materials.

312. Under the Technical Education programme, the number of technical schools is to be increased in the country. Modular and intensive courses (vocational and technical) are being designed to provide short-term training to meet the needs of the country.

### 5. Special education

313. During 1990/93, a total of 1,100 disabled children were admitted to 42 different schools under the Special Education programme; 25 disabled persons have become teachers. Technical and vocational training in agriculture, construction, health, mechanics, electronics and sanitation were provided to 827 persons. Short training courses have been conducted in different districts to provide basic skills to disabled persons, including children.

314. SOS Children's Villages are engaged in bringing up orphans. Apart from child care, they also provide schooling. There are children's villages in four different regions of the country: Kathmandu, Pokhara, Surkhet and Itahari. The Paropakar Orphanage, the country's first NGO-run welfare centre, set up in 1952, has been providing educational opportunities to orphans,

besides training them in different professions. It operates a secondary school and has plans to branch out in other areas of social welfare. Similarly, the Herman Minor School and Douglas Memorial Centre provide care and education to about 300 children of backward communities.

315. Special education that targets the physically handicapped is in poor shape. It is looked upon more as an act of charity than as a form of education to which the citizens of the country are entitled. Given this attitude, it is no wonder that it occupies a position at the bottom of the priority scale.

## B. Aims of education (art. 29)

316. The national objectives of education, as specified in the Report of the National Education Commission (1992) and endorsed by the Government, are:

(a) To contribute to the full development of individual faculties and personalities;

(b) To contribute to the development of a harmonious social life by developing basic human qualities in individuals;

(c) To promote the socialization of individuals;

(d) To contribute to the modernization of society;

(e) To help in the conservation and proper use of natural resources and the environment;

(f) To help persons and communities that lag behind in society to integrate with the national mainstream.

## C. Leisure, recreation and cultural activities (art. 31)

### Legislative provisions

317. Article 18 of the Constitution recognizes the right of each community residing within the Kingdom of Nepal to preserve and promote its own language, script and culture.

318. The Municipality Act has provisions to make necessary arrangements for recreational places, such as playgrounds, museums, parks and libraries.

319. The Labour Act and Labour Regulations require employers to provide recreational facilities for the children of workers.

### Implementation

320. Since the introduction of the New Education Plan in 1971, schools have put a lot of emphasis on extra-curricular activities. Parents' days and sports events are part of regular school activities today. The Ministry of Education, Culture and Social Welfare sponsors inter-school sports and

cultural competitions. Quiz contests, essay competitions and games are organized regularly by the District Education Office. Boy and Girl Scout organizations are encouraged and aided by the Government. These organizations organize hikes and camping regularly.

321. Children come together annually to participate in rallies, competitions and sports events on Children's Day, which falls in August.

322. NGOs regularly organize cultural and recreational activities for children. For instance, in January of 1994, CWIN organized dance, painting and other competitions for street children to mark its seventh anniversary. Similarly a cultural group, Arohan, presented an educational drama entitled "AIDS" for the benefit of street children. The Japanese Embassy has been organizing a kite flying demonstration and competition annually. Under the joint auspices of Redd Barna and Sarbanam, a drama group, children between the ages of 10 and 14 are brought to Kathmandu and given short courses in acting. The children then go back to their villages to perform dramas with themes such as "Let's not cut trees" or "Do not discriminate between boys and girls."

323. The Population Division of the National Planning Commission Secretariat conducts poster competitions for children every year. Both the electronic and print media allocate some time and space for the benefit of children. Radio Nepal airs a programme for children every evening. Nepal Television also has programmes for children, and has been organizing quiz contests among schools for years. Likewise, the Sports Council organizes competitions in athletics and other indoor and outdoor games, apart from training students in various sports, including martial arts. About 40 schools in the Kathmandu valley teach martial arts to their students.

324. For disabled children, sports events are organized annually. Disabled athletes from Nepal have won medals in the Special Olympics.

**Constraints**

325. What few recreational facilities are available are found only in urban centres. Very few cultural activities are organized in schools in rural areas. Due to abject poverty in rural areas and urban slums, most children find little time for leisure anyway. Even in urban areas, municipalities have not done much for children's recreation. There is a severe shortage of playgrounds even in the capital. There are few parks or playing fields, and, as the cities expand, fewer and fewer play areas are left for children.

## IX. SPECIAL PROTECTION MEASURES

### A. Children in situations of emergency

#### 1. Refugee children (art. 22)

**Legislative provisions**

326. Specific legal provisions do not exist for refugee protection.

**Implementation**

327. The Government has been taking care of nearly 100,000 Bhutanese refugees in Nepal as per the provisions made in the Convention relating to the Status of Refugees. In cooperation with UNHCR, INGOs and NGOs, the Government is providing food and shelter to Bhutanese refugees, many of whom are children and women. UNHCR has been assisting in providing drinking water, sanitation, education, health and food. Some 30,000 refugee students are receiving primary education. They are being taught by about 360 teachers. Another 10 teachers are tutoring 360 students at the secondary school level. The OXFAM NFE programme has provided educational facilities to 5,779 students. More than 6,800 refugees are participating in OXFAM's supplementary income-generation projects operating in the different refugee camps.

**Constraints**

328. Much of what the Government can do for the refugees depends on the amount of foreign aid that is donated. The concentration of refugees in the eastern part of the country has led to heavy deforestation in and around the camps. In addition, some of the refugees are found to be engaged in prostitution and drug abuse.

### 2. Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)

**Legislative provisions**

329. The Royal Army New Recruitment Rules (1962) require a person to be at least 18 years old before being recruited by the army. The Young Boys (Recruitment and Conditions of Services) Rules (1971) say that young boys must be between 15 and 18 years old to be recruited.

330. The Police Regulations (1992) require a person to be above 18 years of age to be recruited by the police force.

331. Any person who is a victim of physical or mental torture, or any cruel, inhuman or degrading treatment, while under detention during trial, or at any other time, is entitled to compensation in accordance with article 14 of the Constitution.

332. Nepal is a party to the four Geneva Conventions: the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, relative to the Treatment of Prisoners of War, and relative to the Protection of Civilian Persons in Time of War. As a party to these Conventions, Nepal is committed to establish, both in times of peace and after the outbreak of hostilities, in its own territory, and if the need arises, in occupied areas, hospitals and safety zones to protect the wounded, sick, aged, children under 15, expectant mothers and mothers of children under seven from the effects of war.

**Implementation**

333. Nepal does not have any children who are victims of war.

## B. Children in conflict with the law

### 1. Administration of juvenile justice (art. 40)

**Legislative provisions**

334. Before Nepal became a party to the Convention, there were only a few provisions in the laws to protect the interests of the child. After adopting the Convention, the Nepalese Parliament legislated the Children's Act.

335. The Constitution has guaranteed the right to freedom, the right to criminal justice and the right to freedom from preventive detention to all citizens. In addition to this, the Children's Act and other relevant provisions in the laws have provided for the right of a guardian or heir to initiate a case in favour of a child and carry out the proceedings without detaining the child.

336. Section 19 of the Children's Act states the following:

(a) The Court shall not entertain or decide a criminal charge brought against the child unless there is a legal practitioner to defend the child;

(b) In such circumstances the concerned court shall make available the services of a legal practitioner appointed by HMG or any other legal practitioner wishing to provide such services.

337. The Act also provides for the establishment of a juvenile court, as required, and until such a court is established, the Children's Bench, comprised of social workers, child specialists or child psychologists, and the judge of a district court, shall hear and decide cases.

338. The rights of a child alleged to or accused of infringing on the penal law are as follows:

(a) The child is presumed innocent until proven guilty by law. The Evidence Act (1974) stipulates that the burden of proof lies with the plaintiff and the benefit of the doubt goes to the accused;

(b) The child has to be informed promptly and directly of the charges against him or her. Article 14 (5) of the Act stipulates that a person arrested shall not be detained in custody without being informed promptly of the grounds for such an arrest, nor shall he/she be denied the right to consult with and be defended by a legal practitioner of his/her choice. Section 19 states that no case of a child accused of violating a penal law shall be heard or decided unless and until the child is represented by a legal practitioner. For that purpose, the concerned court is required to make arrangements for the services of a legal practitioner, who is appointed by HMG or any other legal practitioner interested in rendering such services;

(c) The child has the right to have his/her case decided without delay on a priority basis by a competent independent judicial authority. Section 57 of the Act requires that a case in which a child is a plaintiff or a defendant be given priority for hearing and verdict. Section 55 of the Act provides for a separate authority to deal with cases involving children;

(d) The child cannot be compelled to give testimony or compelled to confess guilt. Article 14 (3) of the Constitution stipulates that no person accused of an offence shall be compelled to be a witness against himself or herself;

(e) In case the child is considered to have infringed on the penal law, he/she has the right to have the decision reviewed by a higher independent judicial body. Section 56 of the Act stipulates that a person who is not satisfied with the decision of the Juvenile Court or the District Court, as the case may be, may appeal before the Appellate Court within 35 days of such a decision;

(f) The child is entitled to the respect of his/her privacy at all stages of the proceedings. Section 49 of the Act states that only a legal practitioner, the child's parents, guardians or relatives, and persons or representatives of social institutions concerned with the protection of the rights and interests of the child, as may be permitted by the authority hearing the case, may be present during the proceedings of a case related to the child. It has further been stipulated that only those facts as may be permitted by the authority investigating the case or by the authority presiding over the proceedings may be published.

339. Moreover, section 15 of the Act prohibits imposing any severe punishment on a child considered to have transgressed the penal law. Section 11 deals with criminal liability of the child. Any child below the age of 10 is to be presumed exempt as far as penal liability is concerned. For offences committed by children between the ages of 10 to 14 that carry prison terms, the punishment will be limited to six months. For offences by children between the ages of 14 and 16, the punishment will be half of that which is given to an adult convicted of the same crime.

340. Under section 20 of the Act, anyone may file a petition in the district court under whose jurisdiction the child is residing, for the execution of the rights of the child set forth in the Act. Upon receiving such a petition and after making the necessary investigations, the court may issue appropriate orders or decrees. If the court decides that a loss has been caused to the child due to encroachment on the rights set forth in the Act, the court may, while issuing such orders or decrees, also decide to provide the aggrieved child with appropriate compensation.

341. Section 50 of the Act provides for initiation of investigations and exemption from punishment in cases involving a child. Where a child is accused of committing an offence which may require the offender to be tried while under detention, the court, upon considering the age and physical condition of the child, the circumstances leading to the commission of the offence, the place of detention, and the necessity for detaining such a child,

may order investigation and trial of the case while putting the child in the custody of his/her father, mother, relative, or guardian or any social institution engaged in the protection of the rights and interests of the child. The concerned authority may also keep the child under probation, considering the physical condition and age of the child as well as the nature and frequency of the offences committed.

342. In the absence of juvenile courts, it is the chief district officer who enforces the judicial, administrative and other measures relating to various articles mentioned above.

**Implementation**

343. These provisions are yet to be implemented.

**Constraints**

344. Even two years after the Children's Act was enacted, a juvenile court has not been constituted.

### 2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b), (c) and (d))

**Legislative provisions**

345. Article 15 of the Constitution states that no person shall be held under preventive detention unless there are sufficient grounds showing the existence of an immediate threat to the sovereignty, integrity or law and order of the Kingdom of Nepal.

346. As far as court procedure is concerned, if the court deems it reasonable to release a minor from judicial custody, it can grant bail to such a minor. If a person detains someone illegally and the detainee is a minor, the punishment shall be doubled.

### 3. Sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment (art. 37 (a))

**Legislative provisions**

347. Article 12 of the Constitution stipulates that no person shall be deprived of his/her personal liberty, except in accordance with the law, and no law shall be made which makes provision for capital punishment.

348. Article 14 of the Constitution prohibits any torture or other cruel, inhuman or degrading treatment or punishment of any person. Anyone who is subjected to physical or mental torture is entitled to compensation to be determined by the court.

349. Under section 11 of the Act, a child who has violated the penal law shall not be sentenced to life in prison.

### 4. Physical and psychological recovery and social reintegration (art. 39)

**Legislative provisions**

350. Section 42 of the Children's Act provides for the establishment of children's rehabilitation homes by the Government.

The following children are to be kept there:

(a) A child to be imprisoned pursuant to the existing law for the investigation or proceedings of the case having been accused of any crime;

(b) A child to be imprisoned as punishment pursuant to existing laws;

(c) A child addicted to drugs;

(d) A child who often runs away from father, mother or the family;

(e) A child who keeps company with persons involved in immoral or illegal activities or takes part in the activities of such persons or depends upon their earnings.

**Implementation**

351. NGO activities are largely communication based, and more preventive than rehabilitative. There are few NGOs conducting rehabilitation programmes for children who have been abused or neglected.

**Constraints**

352. Welfare homes have yet to be established.

## C. Children in situations of exploitation

### 1. Economic exploitation, including child labour (art. 32)

**Legislative provisions**

353. The Constitution states that no minor shall be employed in a factory, mine or dangerous work (art. 20.2).

354. The new Children's Act prohibits the employment of children below the age of 14 in manufacturing industries. It also provides for some protective and safety measures while employing minors of the 14- to 18-year-old age group. According to the provisions laid down in the Act, no minor can be employed in a factory without a pre-employment health check-up and a medical certificate. They cannot be employed to operate dangerous machinery without providing them with adequate training or the supervision of a skilled person. The Act requires a person, or organization, engaging children in child labour to send photographs and particulars of all child labourers to the District Child Welfare Board.

355. The Labour Act (1992), which has repealed the Nepal Factory and Factory Worker's Act (1959), also prohibits employment of children below 14 years of age in industrial enterprises. The Labour Act further states that a minor cannot be engaged in work from 6 p.m. to 6 a.m. If they are employed, they should be given non-hazardous work, protective gear and sufficient time for studies. The Tea Garden Labourers' Regulation (1993), the Labour Regulation (1993), and the Citizens' Rights Act (1955) have all included similar provisions.

**Implementation**

356. In recent times, working children have received growing attention in Nepal. A number of child-related NGOs have been actively advocating for the protection of the rights and interests of working children. In Kathmandu valley, NGOs like CWIN and the Child Development Society are operating common rooms and literacy programmes for working children as well as street children. Still others have undertaken action-oriented research and surveys to understand the problems and conditions of child labour.

357. A number of technical schools and vocational training institutions provide various kinds of training to underprivileged children. The Underprivileged Children's Education Programme has been operating a number of schools for working children who are above 12 years of age, but have never been to school.

358. Recently, the Government was forced to ban child labour in the carpet industries after buyers in Germany, Nepal's main market for hand-knotted woollen carpets, refused to import Nepalese carpets without certification that they were made without child labour. Credit for the boycott goes to NGOs working for children's rights. As a follow-up, a welfare fund has been established by carpet importers in Germany to provide education and health care for Nepalese children who have been working in the carpet factories. The importers will donate about US$ 1.5 million (1 per cent of the value of carpets imported from Nepal) annually to the fund. The Government has started to eliminate child labour from the carpet industry, and has started a vocational training programme for street children and child labourers displaced from the carpet industry by the new policies.

**Constraints**

359. It is difficult to control and prevent child labour as the problem is rooted in poverty. Child labour is even more prevalent in the unorganized sector of the economy, and in households, where children usually work as servants.

360. Children supplement labour in the fields and at home from an early age. Children between the ages of 6 and 9 work about three hours a day, while children between the ages of 10 and 14 work five to six hours, with girls putting in nearly twice as many hours as boys. The girl child helps to fetch water and collect fuel and fodder. (Refer to annex VI.)

361. Activities against child labour are centred in urban areas, while the bulk of the population lives in the villages. Legislative provisions alone

are not sufficient to safeguard the interests of working children. Unless there is genuine commitment of concerned agencies and individuals as well, child labour cannot be abolished.

362. The growing incidence of child labour in the country is a reflection of the existing socio-economic realities. The Center for Policy Studies, in its research paper entitled "The Nepalese Carpet Industry: A Study", estimates that about 11 per cent of the workforce in the carpet industry is made up of children under 14 years of age. Child labour in the carpet industry was found extensively in the past, but is less apparent now after the steps recently taken by the Government to curtail child labour.

363. According to CWIN, the percentage distribution of child labourers is 86 per cent in agriculture and household work, 6 per cent in services, 3 per cent in business and cottage industries, 2.4 per cent in factories, 0.6 per cent in construction, and 2 per cent in other sectors.

**Future policies and programmes**

364. The Government is aware that it should provide children with better opportunities for education, health care and other basic services to enable them to grow into productive adults. The Children's Act and the Labour Act are to be effectively enforced and gradually improved to cover additional areas. For the protection of working children in the informal sector, suitable legislative provisions will be introduced. Special centres to impart vocational skills are to be established in each of the 14 zones of the country.

365. Studies and surveys are to be undertaken to collect relevant data on the actual status of working children, including bonded child labourers, so as to formulate realistic plans and programmes.

366. Children have long been a source of income for the family. As long as families do not have alternative sources of income, child labour in one form or another will continue to be a reality. Hence, certain protective measures are to be undertaken, such as fixing basic minimum wages, providing opportunities for non-formal education and job-oriented training, basing work on the age, sex, and the physical and mental capacity of the children, and reducing working hours.

367. Measures are to be taken to raise public consciousness of the exploitation of working children. NGOs and local communities will be encouraged to act as pressure groups.

### 2. Drug abuse (art. 33)

**Legislative provisions**

368. Section 16 of the Act prohibits the use of children in the distribution and transportation of liquor and drugs. The Drug Abuse Control Act, which was amended for the third time in 1993, prohibits the production, distribution and use of drugs except for the purpose of medical treatment.

**Implementation**

369. A Narcotic Drug Control Law Enforcement Unit has been established by the Department of Police, while the Home Ministry has a separate department to look into drug abuse. At the district level, the chief district officer and the head of the district police office work together to control drug abuse.

370. The Teaching Hospital in Kathmandu has been implementing a rehabilitation programme for drug addicts with logistical support from the United Nations Drug Control Programme (UNDCP). Educational institutions are engaged in creating awareness about the harmful effects of drug abuse.

371. HMG provides support to NGOs to organize essay and poster competitions to create public awareness about drug abuse. At present, about 16 NGOs are involved in creating awareness. NGOs such as the Nepal Association for Drug Abuse Prevention, the Drug Abuse Prevention Association of Nepal and the St. Xavier's Social Services Centre provide preventive treatment and undertake rehabilitation programmes for drug addicts.

372. A five-year master plan, sponsored by UNDCP and HMG, is being implemented in Nepal. The measures contemplated by the Government are: conducting studies to assess the extent of drug addiction and trafficking, identification of affected children and their referral to rehabilitation and treatment centres, establishment of such centres in each of the five Development Regions, encouraging NGOs and local institutions to prevent drug abuse, rehabilitation of victims, and raising public awareness about the abuse of drugs.

**Constraints**

373. Drug abuse among children is a new phenomenon and is a manifestation of growing socio-economic abnormalities. Children have taken to drugs due to broken homes, insufficient parental attention, economic deprivation and poor performance in studies. The measures taken to prevent drug abuse are, however, inadequate and centre mostly around Kathmandu. There are about 30,000 drug addicts in the country and most of them are between the ages of 15 and 30.

374. As hard drugs are hard to come by, children and adults are taking to Phensidyl, a narcotic-based cough syrup. Due to the long open border with India, it is difficult to stop the illegal flow of this medicine.

**Future policies and programmes**

375. The goals for 2000 are to reduce the cases of drug abuse, especially among children, by at least 50 per cent and to take strong measures to prevent illicit drug trafficking. Two approaches will be taken to tackle the problem: strong preventive measures, and the rehabilitation and treatment of reported cases.

376. The policies and programmes that have been included in the National Programme of Action to Prevent Drug Abuse are as follows:

(a) Proper studies and surveys will be undertaken to assess the extent and magnitude of drug addiction and drug trafficking in the country;

(b) Once addicts are detected, they will be referred to the rehabilitation and treatment centres to be set up in hospitals in each of the five Development Regions. Each of the centres will have the necessary equipment and manpower to treat 50 drug addicts;

(c) NGOs and local institutions will be motivated to take active leadership in preventing drug abuse as well as in rehabilitating the patients;

(d) Effective and radical measures with heavy penalties will be taken against drug procurers and those involved in drug trafficking. Law enforcement mechanisms will be strengthened;

(e) Massive efforts will be undertaken through all the available communications media to raise public awareness of drug abuse. Educational programmes will be conducted in schools, campuses and community gatherings. Counselling services will be arranged for parents of addicts as well as for drug addicts themselves.

### 3. Sexual exploitation and sexual abuse (art. 34)

**Legislative provisions**

377. The Constitution has provided the right to protection against sexual exploitation and abuse. The law prohibits engaging children and women in immoral activities. Section 16 of the Children's Act states that nobody should use or involve children in immoral acts, in pornographic acts (including the photography, distribution and display of immoral pictures) and in publicity (photograph or description) of materials that are damaging to the child's character.

378. Section 14 of the Act prohibits parents from selling their children for making offerings to the gods during religious rites or rituals.

379. The General Law provides the right against sexual exploitation, rape and abuse. Sexual intercourse with a girl below the age of 16, with or without her consent, is considered a rape. Anyone who rapes a girl below 14 can be sentenced to between 6 and 10 years in jail. If the girl is 14 or older, the man can be sentenced to five years in prison. If a girl is above 16 years of age, sexual intercourse without her consent is considered a rape. A rape is punishable by life imprisonment, depending upon the brutality committed and the relations between the rapist and the rape victim.

**Implementation**

380. Some NGOs are working to do away with the *Deuki* system, a tradition in west Nepal where girls are forced into the flesh trade after being offered to

a temple. A girl becomes a *Deuki* when she is bought from a poor family to be offered to the gods. After a girl becomes a *Deuki*, she cannot marry and often engages in prostitution for economic support. Their children, known as *Devis*, are accepted in the society, but find it difficult to get married because of a traditional belief that some disaster will strike the husband's family. As a result, the *Devis* are also pushed into the flesh trade. There are more than 250 *Devis* scattered across Baitadi district in far west Nepal.

381. An NGO, Tripura Sundari Village Development Association, is helping with income generation and education for *Deukis* in Melauli village of Baitadi district, with support from UNICEF. About 10 girls from *Deuki* communities in west Nepal have been brought to Kathmandu and given an opportunity for formal education by the Government. The Government has also inducted *Devis* into the police force to give them an alternative livelihood. Feature films and telefilms have played a crucial role in creating awareness about the *Deuki* system. Some NGOs are providing shelter and training to girls who have returned or escaped from brothels in India.

382. Through support from UNICEF and NGOs, Badis have taken to income-generating activities such as fruit and vegetable farming, skill development programmes, literacy classes and formal education. The Badi caste which traditionally earned their living as entertainers, dancing and making music, have now adopted prostitution as their profession.

**Constraints**

383. Despite the existing legal provisions, it is known that sexual exploitation of adolescents and minor girls is taking place. Many girls of the Badi caste are still engaged in prostitution. Some people, especially in Baitadi and Doti in far west Nepal, continue to offer girls to the gods and goddesses in the belief that by doing so they will overcome poverty and disease, or gain financially.

384. There have been many cases where children as young as five or six have been raped, in most cases by the child's near ones.

### 4. Other forms of exploitation (art. 36); sale, trafficking and abduction (art. 35)

385. Article 20 of the Constitution prohibits trafficking in human beings, slavery, serfdom or forced labour in any form. Anyone violating the Human Trafficking (Control) Act (1986) can be sentenced to 15 years in prison.

386. The chapter on Trafficking in Persons in the General Law prohibits the act of selling human beings. Section one of the chapter prohibits taking a person out of Nepal to sell him or her.

**Implementation**

387. Soon after the advent of democracy, a seminar on girl trafficking, attended by the then Prime Minister of the interim Government, Krishna Prasad Bhattarai, was held to highlight the issue. The Government and NGOs are

trying to create awareness about the problem of girl trafficking through publications, seminars and action programmes. NGOs working to create awareness about AIDS are especially active in this field, as several returning prostitutes from the brothels in India have been found to be carrying the HIV virus.

388. The media have also devoted a lot of time and space to highlight the problem. Feature films and telefilms have proved effective in relaying the message, though they reach only a limited segment of the population.

389. Together with the NGOs, the police are stepping up their role in combating this crime. In September 1994, groups, consisting of campus students, social workers, girls who have returned from brothels in India, and the police, went to Sindhupalchowk, in central Nepal, to create awareness among the inhabitants through pamphlets, talk programmes and rallies with support from UNICEF. Many communities from this area have traditionally sent their daughters to work in India as prostitutes. The groups visited different areas of Nepal for three months to create awareness.

390. UNICEF, in coordination with local NGOs, is preparing a national-level campaign to promote awareness of the trafficking of girls from Nepal to India. Activities will include advocacy at the ministerial level to strengthen the laws regarding human trafficking, and working with the police to generate commitment to stronger enforcement of laws. The programme intends to generate microlevel interventions in the districts most affected by girl child trafficking. Since poverty is one of the major causes that have forced girls into prostitution, a major focus will be on income-generating skills. Literacy will be another focus. In a study of some 400-500 Nepalese prostitutes in Bombay, an NGO, the Women's Rehabilitation Centre (WOREC), found that most were illiterate. Nepalese journalists have been provided information on child trafficking. Recently, a group of journalists was taken on a tour of the brothels of Bombay to acquaint them with the situation.

**Constraints**

391. Due to poverty in the hills, traffickers have found it easy to lure thousands of girls to India every year with tales of jobs and roles in films. An estimated 100,000-150,000 Nepalese girls and women are said to be working in India as prostitutes. The girls are usually recruited from Sindhupalchowk, Nuwakot, Makwanpur, Kavre and Dhading districts in central Nepal.

392. As soon as they reach puberty, the girls are often sent to India even by their own parents or at least with their collusion. The wealth which these girls bring back has only encouraged many parents to send their daughters to India. Poverty, lack of awareness and an old tradition of sending daughters to be prostitutes for Kathmandu's ruling élite have fuelled this trade. An unregulated, open border with India has been one of the major problems in girl child trafficking.

## D. Children belonging to a minority or an indigenous group (art. 30)

393. Article 11 of the Constitution guarantees the right to equality and mentions that the "State shall not discriminate among citizens on the grounds of religion, race, sex, caste, tribe, ideological conviction or any combination of these".

394. The Constitution as well as the Education Act allow for primary education in the mother tongue. The different acts and regulations of Nepal do not have separate provisions for majority and minority groups.

395. The Citizens' Rights Act states that the Government may make special provisions for women, children and backward citizens.

### Implementation

396. Since the establishment of democracy in 1990, Radio Nepal has begun broadcasting news in a few of many different languages spoken in the country.

397. Some of the social programmes included in the Eighth Plan to promote the interests of the backward as well as minority groups are as follows.

398. **Raute rehabilitation programme**. The Rautes are considered the most backward ethnic group in Nepal. They are being rehabilitated through the joint efforts of governmental and non-governmental organizations. The programme, which began three years ago, will benefit 375 Rautes, who will all be provided with houses.

399. **Bonded labour rehabilitation programme**. Bonded labour exists in many districts of far west Nepal. In order to gradually eliminate bonded labour, the children of bonded labourers will be provided with education, both formal and non-formal, as well as vocational training. Twenty persons (mostly children) from each of the districts of Banke, Dang, Bardia, Kailali and Kanchanpur, in west Nepal, will benefit from this programme.

400. **Social security and development**. Ten girls from backward communities in far west Nepal have been brought to Kathmandu and are being provided formal education to create public awareness about the Deuki system.

### Constraints

401. Traditionally there has been little formal education in the different ethnic language groups of Nepal. Many of these groups do not have a written tradition. Teaching them in their own language, therefore, poses a problem. As the Government is constantly engaged in other serious economic and political issues, the needs of the minority groups tend to receive little attention.

402. There is a lack of private radio station and insufficient television stations to provide appropriate information to different ethnic groups.

## X. CONCLUSION

403. Although Nepal has ratified the Convention on the Rights of the Child, implementation of the provisions set forth in the Convention has been rather slow. Rural poverty, traditional social barriers and lack of awareness about the child's rights are major constraints in implementing the provisions to secure the rights of the child.

404. The plight of the child is directly related to the existing economic conditions prevailing in the family. Children are seen as a source of income for the family. As long as families do not have an alternative source of income, children will continue to be deprived of their rights. The working child has received a lot of attention in recent times, leading to concrete programmes aimed at rehabilitation. Suitable legislative provisions, however, are still lacking to protect the interests of working children in the unorganized and informal sector, where most of them work.

405. Underutilization of scarce resources, inefficiency, poor enforcement and implementation of laws, and poor participation or no participation by the target groups have been stumbling-blocks in meeting the planned targets. Lack of proper coordination and networking among programmes as well as bureaucratic red tape have been other obstacles.

406. Given the resource constraints of the Government, NGOs should be encouraged to step in to promote the interests of the child. NGOs have proven that they can do an effective job in protecting the rights of the child, as in the case of working children in the carpet industry. The media should also continue to play a significant role in the years to come. The credit for creating what little awareness there is about oral rehydration therapy or the problems of girl trafficking should go to the media, especially TV and radio.

407. As long as poverty looms large, child labour and other forms of exploitation will continue to exist in one form or the other. Because of the heavy work burden of the parents, especially that of women, children begin to look after the family chores from an early age, tending cattle, collecting water and fuel, and looking after younger siblings, depriving them of their right to education and proper upbringing. And because of conservative male-oriented traditions, it is the girl child who suffers most.

408. Despite many challenges, notable achievements have been made in improving the lot of the child. The extensive Expanded Programme of Immunization (EPI) cold chain network has brought immunizations against measles, tetanus, tuberculosis, diphtheria, whooping cough and polio to the majority of children. On the education front, nearly 80 per cent of children of school-going age are attending primary school. New textbooks are being developed for primary school students, while teachers are getting some training, even if it is for a few days. For those who have never been to school or for drop-outs, non-formal education classes have proven a great boon in raising awareness about sanitation, health and income generation in the rural areas. In 1993/94, 340,000 people, primarily girls and women, participated in these classes.

409. Since women are largely responsible for looking after children, programmes have been introduced to empower women. Programmes such as the Production Credit for Rural Women (PCRW) provide skills and credit opportunities to women of disadvantaged families. Women are being empowered to initiate the programme in areas of health, nutrition, education, water supply and other programmes in their communities. NGOs are training female community health volunteers to involve women at the grass-roots level in providing child survival education and basic health services.

410. Monitoring of different activities for the welfare of children has not been very effective. There is inadequate data collection regarding nutrition levels, school enrolment, child prostitution and many other factors relevant to the proper knowledge of the state of children's rights in Nepal.

## XI. BASIC INDICATORS

### A. Demographic indicators

Life expectancy:

| | |
|---|---|
| Total | 54.4 years |
| Male | 55.2 years |
| Female | 53.7 years |

Population (1991):

| | |
|---|---|
| Total | 18,491,097 |
| Male | 9,220,974 |
| Female | 9,270,123 |

Sex ratio (male:female): 99.5:100

Estimated population (1994): approximately 20.0 million

Annual population growth:

| | |
|---|---|
| Total: | 2.1 per cent |
| Urban: | 5.89 per cent |
| Rural: | 1.8 per cent |

Population distribution:

| | |
|---|---|
| Urban: | 9.5 per cent |
| Rural: | 90.5 per cent |

Total fertility rate: 5.7 children per woman

Crude birth rate: 39.1

Crude death rate: 13.1

## B. Health and education indicators (1991)

Infant mortality rate: 102 per 1,000 live births (93.8 in 1994)

Under-five mortality rate: 165 per 1,000 live births (139.2 in 1994)

Maternal mortality rate: 850 per 100,000 (5.2 in 1994)

Persons per hospital bed: 3,967

Persons per health post: 24,000

Persons per medical doctor: 15,800

Literacy rate:

| | |
|---|---|
| Total | 39.7 per cent |
| Male | 54.5 per cent |
| Female | 25.0 per cent |

## C. Socio-economic indicators

Economically active population (above 10 years of age):

| | |
|---|---|
| Total | 57.0 per cent |
| Male | 68.7 per cent |
| Female | 45.5 per cent |

Total by age group:

| | |
|---|---|
| 0-14 | 42.4 per cent |
| 14-59 | 51.8 per cent |
| 60+ | 5.8 per cent |

GDP growth rate (1991/92): 2.1 per cent

GDP per capita (1994): US$ 202

Rate of inflation (1981-1991): 9.1 per cent

Rate of unemployment (1992): 7.6 per cent

Population involved in agriculture: 81.3 per cent

Dependency ratio:

| | |
|---|---|
| Total | 93.1 per cent |
| 1-14 | 81.9 per cent |
| 60+ | 11.2 per cent |

## Annex I

## LAWS AND REGULATIONS RELATED TO CHILD WELFARE AND DEVELOPMENT

### Acts before ratification of the Convention on the Rights of the Child

Begging (Prohibition) Act (1961)

Birth and Death Registration Act (1976)

Citizens Rights Act (1964)

Civil Liberties Act (1954)

Contract Act (1966)

Drug Abuse (Control) Act (1976)

Education Act (1971)

Evidence Act (1974)

Hotel Management and Liquor (Sales or Distribution) Control Act (1966)

Human Trafficking (Control) Act (1986)

Income Tax Act (1974)

Local Administration Act (1971)

Marriage Registration Act (1971)

Muluki Ain (General Law) (1963)

Nepal Citizenship Act (1963)

Police Act (1956)

Prison Act (1962)

Provident Fund Act (1962)

### Regulations before ratification of the Convention

Compensation Rules (1963)

Demographic Statistics Registration Regulation (1977)

Government Hostel Regulation (1972)

Money Order Regulation (1974)

Passport Rules (1970)

Post Office Savings Bank Regulation (1976)

Prison Regulation (1963)

Royal Army New Recruitment Rules (1962)

Smallpox Control Rules (1966)

Sucking Baby (Maintenance) Rule (1963)

Young Boys' Recruitment and Condition of Services Rules (1971)

Disabled Protection and Welfare Act (1982)

**Acts after ratification of the Convention**

The Constitution of the Kingdom of Nepal (1991)

The Children's Act (1992)

Breast Milk Substitutes (Control) Act (1992)

District Development Committee Act (1991)

Insurance Act (1992)

The Labour Act (1992)

Local Election Act (1991)

Municipality Act (1991)

Social Welfare Act (1992)

Village Development Committee Act (1991)

**Regulations after ratification of the Convention**

Civil Service Regulation (1993)

Education Regulation (1992)

Labour Regulation (1993)

Police Regulation (1992)

Tea Garden Labour Regulation (1993)

Annex II

NEPAL GOALS FOR CHILDREN AND DEVELOPMENT FOR THE 1990s

| Global goals for 2000 | 1990 Situation in Nepal | International goals | | Nepal goals for 2001 |
|---|---|---|---|---|
| | | 1996 | 1998 | |
| **HEALTH**<br>Reduction of Infant Mortality Rate (IMR) by one third or to 50 per 1 000 live births, whichever is less | 107 per 1 000 live births | 80 | 60 | 50 per 1 000 live births |
| Reduction of Under-five Mortality Rate (U5MR) by one third or to 70 per 1 000 live births, whichever is less | 165 per 1 000 live births | 130 | 95 | 70 per 1 000 live births |
| Reduction of maternal mortality by one half | 850:100 000 | 750 | 600 | 400:100 000 |
| Eradication of poliomyelitis | 9 323 cases | 11 122 cases to be prevented | 11 952 cases to be prevented | Education of poliomyelitis by 2000 |
| Elimination of neonatal tetanus by 1995 | 17 021 cases | 20 776 cases to be prevented | 21 676 cases to be prevented | Elimination of NNT by 1995 |
| Reduction of measles deaths by 95% and reduction of measles cases by 90% by 1995 | 391 962 cases | 467 510 cases to be prevented | 486 935 cases to be prevented | To reduce measles mortality by 95% and morbidity by 90% by 1995 |
| Maintenance of high levels of vaccination coverage, at least 90% of children under one | BCG: 90%<br>DPT3: 79%<br>Polio3: 78%<br>Measles: 67% | 95%<br>90%<br>90%<br>90% | 95%<br>95%<br>95%<br>95% | To reduce vaccine preventable diseases and maintain high level of immunization coverage in all communities |
| Diarrhoea-related deaths in <5 year children to be decreased by 50% | 45 000 deaths | 15%<br>8 000 deaths to be prevented | 35%<br>15 000 deaths to be prevented | 55% reduction, 19 000 deaths to be prevented |
| Knowledge about diarrhoeal diseases control and correct use of ORT | 65% knowledge<br>2% correct use | 90%<br>25% | 90%<br>50% | 100% knowledge<br>65% correct use |
| Reduction of <5 mortality due to ARI related causes by 1/3 | 40 000 deaths | 17%<br>6 667 deaths to be prevented | 25%<br>10 000 deaths to be prevented | Reduction by half<br>20 000 deaths to be prevented |

| Global goals for 2000 | 1990 Situation in Nepal | International goals | | Nepal goals for 2001 |
|---|---|---|---|---|
| | | 1996 | 1998 | |
| **NUTRITION**<br>Reduction of severe and moderate malnutrition among under-5 children by half | 50% | 44% | 38% | 25% |
| Reduction of iron deficiency anaemia in women by one third | 78% | 70% | 55% | 50% |
| Virtual elimination of vitamin A deficiency and its consequences including blindness | 2.1%<br>(Bitot's Spots) | 1.5% | 0.5% | 0.1% |
| Virtual elimination of iodine deficiency disorders (IDD) | 40% | 28% | 9% | 1% |
| **EDUCATION**<br>Universal access to basic education | Net enrolment:<br>Total: 74%<br>Female: 54% | <br>86%<br>76% | <br>91%<br>85% | <br>74% to 100%<br>54% to 100% |
| Completion of primary education by at least 80% of primary school age children | 27% | 55% | 70% | 70% + |
| Reduction of adult illiteracy rate to at least half with emphasis on female literacy | Illiteracy:<br>Total: 60%<br>Female: 79% | <br>46%<br>62% | <br>40%<br>54% | <br>60% to 30%<br>79% to 39% |
| **WATER AND SANITATION**<br>Universal access to safe drinking water | Rural: 35%<br>Urban: 66%<br>Total: 37% | 50%<br>75%<br>53% | 65%<br>84%<br>67% | 35% to 75%<br>66% to 90%<br>37% to 77% |
| Universal access to sanitary means of excreta disposal | Rural: 3%<br>Urban: 34%<br>Total: 6% | 12%<br>50%<br>16% | 21%<br>67%<br>26% | 3% to 25%<br>34% to 75%<br>6% to 31% |

## Annex III

### FOREIGN ADOPTIONS BY COUNTRY, 1994

| | |
|---|---|
| Australia | 10 |
| Belgium | 7 |
| Canada | 21 |
| Denmark | 2 |
| Finland | 7 |
| France | 179 |
| Germany | 48 |
| India | 1 |
| Italy | 8 |
| Japan | 6 |
| Netherlands | 33 |
| Norway | 3 |
| Spain | 16 |
| Sweden | 36 |
| Switzerland | 32 |
| United Kingdom | 26 |
| United States | 77 |

Source: Home Ministry, 1994.

**Annex IV**

**HEALTH SERVICES IN NEPAL**

| | At the end of the Seventh Plan (1985-90) | Present status (1992-93) |
|---|---|---|
| Hospitals | 111 | 114 |
| Hospital beds | 4 572 | 4 848 |
| Population bed ratio | 4 632 | 3 967 |
| Health centres | 16 | 18 |
| Health posts | 816 | 816 |
| Sub-health posts | 0 | 700 |
| Primary health centres | 0 | 20 |
| Population health post ratio | 20 677 | 24 000 |
| Ayurvedic hospitals | 153 | 165 |
| Doctors | 951 | 240 |
| Population/doctor ratio | 27 271 | 15 800 |
| Nurses | 2 980 | 2 999 |
| Kaviraj (ayurvedic physician) | 240 | 240 |
| Vaidya (ayurvedic physician) | 130 | 130 |
| Health workers | 19 461 | 20 442 |
| Village-based health workers | 3 000 | 4 015 |

Source: 1. HMG/National Planning Commission, The Eighth Plan (1992-1997); 2. HMG/Ministry of Finance, Economic Survey, Fiscal Year 1992/93.

## Annex V

**SECTORAL DISTRIBUTION OF SCHOOLS, STUDENTS AND TEACHERS, PUBLIC AND PRIVATE (ACADEMIC YEAR 1992/93)**

| | Primary | | | Lower Secondary | | | Secondary | | |
|---|---|---|---|---|---|---|---|---|---|
| | Schools | Students | Teachers | Schools | Students | Teachers | Schools | Students | Teachers |
| **NEPAL** | 22 096 | 3 215 | 85 193 | 5 049 | 486 | 15 673 | 3 335 | 576 | 16 520 |
| **PUBLIC** | 19 498 | 3 035 | 77 984 | 4 230 | 433 | 13 225 | 2 309 | 422 | 12 132 |
| **PRIVATE** | 2 598 | 180 | 7 245 | 819 | 53 | 2 448 | 1 226 | 154 | 4 388 |
| Eastern Region | 4 589 | 788 | 19 234 | 1 102 | 126 | 3 334 | 734 | 149 | 3 304 |
| (a) Public | 4 272 | 756 | 18 146 | 962 | 116 | 3 025 | 505 | 113 | 2 655 |
| (b) Private | 317 | 32 | 1 088 | 140 | 10 | 309 | 229 | 36 | 649 |
| Central Region | 6 539 | 995 | 28 220 | 1 714 | 159 | 6 050 | 1 220 | 194 | 6 766 |
| (a) Public | 5 744 | 912 | 23 969 | 1 322 | 134 | 4 639 | 766 | 140 | 4 572 |
| (b) Private | 795 | 83 | 4 251 | 392 | 25 | 1 411 | 454 | 54 | 2 194 |
| Western Region | 5 895 | 802 | 21 342 | 1 258 | 125 | 3 709 | 973 | 156 | 4 137 |
| (a) Public | 4 716 | 752 | 19 921 | 1 063 | 113 | 3 180 | 616 | 109 | 2 996 |
| (b) Private | 1 179 | 50 | 1 421 | 195 | 12 | 529 | 357 | 47 | 1 141 |
| Mid-Western Region | 3 001 | 373 | 9 600 | 566 | 45 | 1 462 | 348 | 47 | 1 300 |
| (a) Public | 2 865 | 366 | 9 391 | 515 | 42 | 1 361 | 246 | 37 | 1 086 |
| (b) Private | 136 | 7 | 209 | 51 | 3 | 101 | 102 | 10 | 214 |
| Far-Western Region | 2 072 | 257 | 6 797 | 409 | 31 | 1 118 | 260 | 30 | 1 013 |
| (a) Public | 1 901 | 249 | 6 521 | 368 | 28 | 1 020 | 176 | 23 | 823 |
| (b) Private | 171 | 8 | 276 | 41 | 3 | 98 | 84 | 7 | 190 |

Source: Ministry of Education, Culture and Social Welfare.

Note: Student number in thousands.

Annex VI

**CHILDREN'S WORK BURDEN BY AGE, SEX, REGION AND POVERTY LEVEL**
**(Time spent, in hours)**

| Poverty level | Rural | | | | | | Urban | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Mountains | | Hills | | Terai | | Hills | | Terai | |
| | Female | Male | Female | Male | Female | Male | Female | Male | Female | Male |
| Ultra Poor | | | | | | | | | | |
| 6- 9 years | 4.39 | 3.05 | 3.86 | 2.23 | 3.21 | 2.22 | 2.83 | - | - | - |
| 10-14 years | 7.7 | 4.39 | 8.43 | 4.82 | 5.59 | 2.46 | 7.01 | 0.5 | - | - |
| Poor | | | | | | | | | | |
| 6- 9 years | 4.26 | 2.71 | 3.26 | 1.96 | 3.12 | 1.86 | 2.58 | 0.83 | 2.84 | 1.78 |
| 10-14 years | 7.28 | 4.21 | 6.82 | 3.78 | 6.53 | 3.78 | 5.6 | 2.11 | 5.67 | 2.67 |
| Non-Poor | | | | | | | | | | |
| 6- 9 years | 4.28 | 4.17 | 3.19 | 1.7 | 2.21 | 1.34 | 1.2 | 0.44 | 1.99 | 0.79 |
| 10-14 years | 7.93 | 4.77 | 7.66 | 4.41 | 5.37 | 2.84 | 3.63 | 1.53 | 4.37 | 2.23 |

Source: Based on NRB/MPHBS, 1984/85.

Note: Using the Nepal Rastra Bank/Multi-Purpose Household Budget Survey (NRB/MPHBS) data, the World Bank recently classified the absolute poor in Nepal into the Ultra Poor (those below the Ultra Poverty Level (UPL) and with per capita monthly income between NRs 50-80) and the Poor (those above the UPL but below the Poverty Level (PL) and with per capita monthly income between NRs 100-145). The Non-Poor are those just above the PL and have a per capita monthly income of NRs 220-250.

## Annex VII

**ANNUAL NATIONAL BUDGET DIRECTED TOWARDS SERVICES RELEVANT TO CHILD HEALTH AND DEVELOPMENT (1994/95)**

| | |
|---|---|
| Education, total | NRs 5 420 million |
| for primary education | NRs 2 688.5 million |
| Health, total | NRs 2 058.7 million |
| for primary health care, health posts and sub-health posts | NRs 402.3 million |
| Water and environmental sanitation, total | NRs 1 625.2 million |
| for rural drinking water projects | NRs 1 132.5 million |

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